



CITY OF FORT LAUDERDALE

DRAFT

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

FORT LAUDERDALE FIRE RESCUE DEPARTMENT – STATION #2

528 NW 2ND STREET, FORT LAUDERDALE, FLORIDA 33311

3RD FLOOR CONFERENCE ROOM

THURSDAY, JUNE 1, 2023 – 6:00 P.M.

**Cumulative Attendance
January-December 2023**

Steve Witten, Chair	P	5	0
James Harrison, Vice Chair	P	4	1
Michael Boyer	P	4	1
Tyler Brunelle	P	3	0
Robyn Chiarelli (6:14-8:12)	P	3	2
Barry Flanigan	P	5	0
Elisabeth George	P	5	0
Brewster Knott	P	4	1
Norbert McLaughlin	P	5	0
Noelle Norvell	P	3	2
Ed Rebholz (arr. 7:00)	P	2	0
Robert Washington	P	2	0

As of this date, there are 12 appointed members to the Board, which means 7 would constitute a quorum.

Staff

- Andrew Cuba, Marine Facilities Manager
- Jonathan Luscomb, Marine Facilities Supervisor
- Sergeant Travis O’Neil, Fort Lauderdale Police Department
- Bob Dunckel, Assistant City Attorney
- Carla Blair, Recording Secretary, Prototype, Inc.

Communications to City Commission

Motion made by Vice Chair Harrison, seconded by Mr. Rebholz, to send this communication up to the City Commissioners, representing our thoughts, along with the idea that we would like to be involved:

The Marine Advisory Board is formally recommending a one-year moratorium on the City issuing any and all waivers for docks, structures, pilings, and/or boat lifts extending into the waterway beyond Code on the New River.

In a roll call vote, the **motion** passed unanimously (11-0).

I. Call to Order / Roll Call

The meeting was called to order at 6:00 p.m. and roll was taken.

II. Approval of Minutes – April 6, 2023

Motion made by Ms. George, seconded by Mr. Harrison, 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. Marine Advisory Board Elections

• **Chair / Vice Chair**

Mr. Flanigan nominated Mr. Witten as Chair. Ms. George seconded the nomination. In a roll call vote, Mr. Witten was unanimously elected Chair.

Mr. Flanigan nominated Mr. Harrison as Vice Chair. Ms. George seconded the nomination. In a roll call vote, Mr. Harrison 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 for April and May 2023:

- 2 burglaries
- 121 citations
- 7 boating accidents

Sgt. O'Neil also noted that the Air and Sea Show was a success, with no serious issues or incidents.

VI. Dock Waiver – 831 Solar Isle / Philip G. Jr. & Oma Jean Mavon

Chair Witten advised that the request is for the installation of a no-profile boat lift, as well as for finger piers extending the maximum distance allowed into the water. Walter Morgan, representing the Applicants, stated that when the subject property was originally acquired, the owner had secured a dock permit for one of two parcels before a basin was constructed. They applied for a permit in 2010 and constructed a new seawall on the basin.

Mr. Morgan asserted that when the Marine Advisory Board (MAB) had recommended a waiver for the property in 2010, the City had “refused to finish the hearing that came before [the MAB]” and did not hear or approve the item at that time, which meant the waiver was not granted. In 2013, the City Commission heard and discussed the item, and it was determined that the owner’s two adjacent parcels would be legally joined.

Mr. Morgan continued that the unity of title was approved by the Florida Attorney’s Office and recorded. There were no further issues with the property until the owner’s original boat, for which the basin had been designed, was replaced by an outboard vessel and the Applicants also wished to install a boat lift. After the permit was secured, the piers constructed, and the boat lift installed, however, a neighboring property owner filed suit against the City, which meant the item was required to go before the City’s Board of Adjustment (BOA). Because the unity of title was not attached to that application, the BOA voted that the permit had been issued in error and the Applicants were required to dismantle the boat lift.

Mr. Morgan concluded that the Applicants were present, with the unity of title documentation as well as an affidavit by the previous City Attorney, to request a permit for the reinstallation of their boat lift. The Application meets all requirements of the City’s Unified Land Development Regulations (ULDR), including the requirement for a principal upland structure, due to the unity of title. He added that both the previous and current City Attorneys agree that bringing the Application before the Marine Advisory Board (MAB) is the best way to correct this issue.

Mr. Morgan called the Board’s attention to Exhibit 4 of the Application, in which he had recommended the Applicants file a new permit application in 2022. The reason given for the failure to approve the previous permit was solely due to the BOA’s ruling that there was no principal upland structure on the property.

Chair Witten asked if the boat lift shown on renderings of the site is considered abandoned. Mr. Morgan confirmed this, as the boat lift had been permitted and installed but was then ordered to be removed. The boat lift currently proposed by the Application is a low-profile lift which allows the owners to access the boat directly from the dock.

Chair Witten commented that he felt the MAB is being asked to comment on the status of the upland structure. The Board may comment on the legality of the lift and pier that are being proposed to ensure that they are compliant with Code, and may recommend approval or disapproval of a waiver for those items. He requested that the Applicants’ representative clarify this further.

Mr. Morgan explained that the requested waiver states no docks or moorings can be granted unless there is a principal upland structure on the subject property. He reiterated that circuit court had addressed this issue and found that the City should grant the waiver request. Mr. Morgan noted that this was followed by the required combination of the

Applicants' two properties into a single property, which was recorded and executed in 2013.

Mr. Flanigan commented that he did not see the unity of title to be a question. The Applicant is currently requesting to replace the boat lift they had dismantled in compliance with the City's previous ruling. The proposed pilings would not extend any further into the waterway than the previous pilings.

Vice Chair Harrison asked if a boat is currently docked at the property. Mr. Morgan confirmed that a 33 ft. boat has been docked at the property for several years. He reiterated that the boat lift shown on the renderings has been dismantled and is unusable.

It was asked why the dock extension would be necessary. Mr. Morgan replied that the current Application proposes only that the docks be rebuilt to the size that had been previously permitted, before that permit was voided. The docks must be re-permitted due to the void.

Mr. McLaughlin requested clarification of the extension of the docks. Mr. Morgan advised that the north dock was built at 23 ft. 7 in. with no extension; however, this represented an extension from the original basin, in which the dock was permitted at 16 ft. The Applicants are hoping to re-permit the north dock so it can remain at its current length. The south dock is at 10 ft. 8 in.

Clarification was requested regarding the neighbor's objection to the structures. Mr. Morgan declared that a neighbor to the south of the subject property owns a boat which extends further into the waterway than the Applicant's boat. He confirmed that the Applicants do not plan to purchase a larger boat that would extend further into the waterway and potentially impede navigation.

Mr. McLaughlin observed that there are no issues with the boat currently docked in the slip; furthermore, removing that boat from the water in the same location would be an environmentally sound practice. The lift would not extend the boat any further into the waterway.

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

Kenneth Taylor, private citizen, stated that he lives north and to the west of the Applicants' property. He asserted that most of the neighbors to whom he has spoken are opposed to the Application. His primary concern was that the request is not for a dock, but for finger piers extending in perpendicular position from the Applicants' seawall. He did not feel this was adequately reflected in the Applicants' renderings.

Mr. Taylor continued that these piers will constitute navigational hazards on the canal, noting that one will extend approximately 23.5 ft. into the waterway. He added that while

there are other boats on the canal, their beams are narrower than the beam of the Applicants' boat, which would extend past their neighbor's dock. He concluded that the subject property was a "point lot" on the Intracoastal Waterway that consisted of a 25 x 25 ft. parcel, and that if the current Application is approved, there would be nothing to prevent the owners from taking further action on the property.

Chair Witten advised that the Board did not find the Applicants' renderings of the finger piers to be misleading, nor have there been reports of accidents involving the structure. While he felt the Board should ensure the structure is properly lighted or marked for safety, the Board is only asked to comment on the current request.

Mr. Taylor pointed out that the previous permit for the finger piers was revoked and the structures were supposed to have been removed along with the previous boat lift. Chair Witten explained that the Board does not approve waivers, but makes recommendations on their approval to the City Commission.

Michele Primean Taylor, private citizen, stated that she represented two adjacent neighbors of the subject property, who also oppose the Application but are out of town. She also pointed out that no Code violations have been issued for the property and the Applicants have not been required to remove structures, which is of concern to the individuals she represents.

Mr. Morgan advised that owners may extend structures to a distance of 25 ft. to 30 ft. in the canal on which the Applicants' property is located, although the finger piers extend no farther than 23 ft. 7 in., as recorded in their earlier permit. He reiterated that no order for the piers' removal was issued, although the boat lift was required to be dismantled.

Assistant City Attorney Bob Dunckel stated that a vessel may extend up to 30% into the width of a canal. He also noted that the finger piers, which extend 23 ft. 7 in., are permitted by right and are not part of the waiver request: the request is for a waiver for the lack of a principal structure, which has been satisfied by unity of title.

Bruce Taylor, private citizen, stated that the length of the Applicants' boat is 33 ft., which would extend into the navigable waterway. It was clarified that the first 25 ft. of the boat's length would be inside the property line, leaving only the remaining 8 ft. to extend.

Mr. McLaughlin requested clarification of the canal width in the subject area. It was noted that this distance is 100 ft.

As there were no other individuals wishing to speak on the Item, the Chair closed the public hearing and brought the discussion back to the Board.

Vice Chair Harrison commented that he felt the issue is outside the Board's purview, as it refers to the status of the upland structure, which is not a waterway issue. He felt the question was more appropriately left to the City Commission. He noted that if a boat can

be docked at a site, a boat lift should be permitted as well; however, he did not believe the Board should make a recommendation. Mr. Cuba confirmed that the Board is asked to determine whether or not the lack of a principal upland structure is an issue.

Attorney Dunckel recalled that when an Application for the subject property came before the Board in 2010, their recommendation had been to approve the waiver due to the lack of a principal structure, but had not approved the request for a boat lift. He continued that the Board is currently being asked for a recommendation on a waiver with a lack of principal structure. If they find that evidence has been presented which demonstrates no extraordinary circumstances, they would need to recommend denial of the waiver request.

Mr. Flanigan recalled that the unity of title has been granted, and was approved when the original waiver application came before the Board in 2010.

Mr. McLaughlin asked if the existing piers have been re-permitted, or if they should have been removed. Mr. Morgan stated that no order for the piers' removal was issued; however, the Applicants needed to have them re-permitted in order to keep them. He added that their removal was not a prerequisite for re-application. He concluded that if the City Commission does not grant the waiver application, the Applicants will have no right to retain their existing finger piers.

Mr. McLaughlin observed that he felt the Applicants should go before the City Commission to secure the permit that would make their existing two piers legal, or to determine that the two existing piers must be removed and replaced with a new permit, before coming before the MAB for a recommendation on the boat lift. Mr. Morgan advised that the City has taken the position that if the Applicants "qualify for the waiver and for the new permit," there would be no reason to go to the further expense of removing and replacing the piers.

Chair Witten observed that the Board is not asked to vote on the legality of the structure, but to send it to the City Commission. Vice Chair Harrison characterized the question as whether or not the Board agrees the boat lift could be constructed on the property, if the property is one on which a boat lift is allowed.

Attorney Dunckel further clarified that in addition to the current unity of title, the ULDR allows for a waiver for lack of a principal upland structure with regard to the construction of docks. He felt that there is enough information before the Board for them to vote on a recommendation to the City Commission.

Motion made by Mr. Flanigan, seconded by Mr. Brunelle, approving the waiver as to the lack of a principal structure and permitting a boat lift. In a roll call vote, the **motion** passed 9-3 (Ms. George, Ms. Norvell, and Mr. Washington dissenting).

VII. Dock Waiver – 321 N. Birch Road / Lee J. Engler – Trustee of the Lee J. Engler Qualified Personal Residence Trust & Patti 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) / 321 N. Birch Road, PH 3

Steve Tilbrook, representing the Applicants, showed a PowerPoint presentation on the request, which is made by four slip owners who reside at 321 N. Birch Road. The Application requests the removal of two permitted boat lifts and their replacement with two floating docks. The Applicants and their representatives have worked closely with their neighbors, who have submitted a letter of no objection to the removal of a pier.

Jena Robbins, also representing the Applicants, showed several photographs of the site, which currently includes a concrete dock, a seawall, two finger piers, and both single mooring piles and triple pile clusters, as well as a no-profile boat lift. The finger piers extend 25 ft. from the property line and the boat on the lift is approximately 55 ft. from the property line. The mooring piles extend a maximum of 75 ft. into the waterway.

Ms. Robbins continued that there are four slips on the subject property, as well as a 4 ft. wide marginal dock and 4 ft. wide finger piers. The boat lift which extends 55 ft. from the property line was approved by Resolution in 2021. Another boat lift was also approved by Resolution in the same year. The mooring piles and triple pile clusters were permitted by Resolution in 2014.

The Applicants request a waiver to remove the existing finger piers and install two floating docks which are roughly 50 ft. long and 8 ft. wide. The existing finger piers pose a safety hazard and would be removed and replaced by the floating docks.

There is one 20 ft. long finger pier on the north side of the subject property, which was proposed as a fixed finger pier. The Applicants are willing to remove this structure in order to improve navigation in the area. Ms. Robbins showed a rendering of the proposed changes overlaid on existing conditions at the site. The waiver is requested for the two floating docks to extend a maximum of 57 ft. from the property line. The Intracoastal Waterway is approximately 562 ft. in width at the subject location, which means the proposed structures are well within the 25% extension limit.

The waiver is requested because all proposed structures will not exceed 25% of the width of the waterway and will not impede navigation. The floating docks are necessary to safely moor the residents' vessels, particularly during high winds, excessive waves, and other severe weather events. The floating docks will be concrete breakwater docks, which will help mitigate excessive wave action. The Applicants would prefer these docks to their boat lifts, as there have been incidents in which individuals were injured when they fell between the docks and the boats. The floating docks are consistent with other previously authorized structures.

Multiple residents from within the same building as the Applicants have provided letters of support, as has a neighbor to the south.

Ms. George commented that she did not object to the Application, but noted that the building has only existed on the site since 2020. She requested additional information regarding the 2014 approval of mooring piles at 75 ft. into the waterway. Mr. Tilbrook advised that the project took several years to implement due to litigation from neighboring properties. The permits were granted after the litigation was resolved.

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

Tim Goligoski, vice president of the Florida Apartments, Inc., a seven unit cooperative located north of the subject property, noted that the Applicants have agreed to remove the existing finger pier as part of the Application. This is the result of discussions between the cooperative board and the Applicants' representatives.

Mr. Goligoski distributed photos of the area, pointing out that north of the subject property, there is a large bend in the waterway. He identified the finger pier the Applicants have agreed to remove, concluding that residents of his cooperative do not oppose the Application as long as that structure is removed.

As there were no other individuals wishing to speak on the Item, the Chair closed the public hearing and brought the discussion back to the Board.

Mr. Cuba advised that he would need a new plan from the Applicants which shows the removal of the finger pier prior to submission of the Application to the City Commission.

Motion made by Vice Chair Harrison, seconded by Ms. George, to approve with the condition that the finger pier be removed. In a roll call vote, the **motion** passed unanimously (12-0).

VIII. Dock Waiver – 435 Bayshore Drive / William Prescott

This Item was removed from the Agenda.

IX. Dock Waiver – 900 / 910 NE 20th Avenue / Michael Binder; F&B Waterfront, LLC

Chair Witten noted that the Applicant of this Item is requesting the installation of a wooden dock extension and four mooring piles.

Katherine Meurer, representing the Applicant, showed a PowerPoint presentation on the Application, including multiple views of the site. The northern portion of the property includes a seawall, dock configuration, and mooring piles. The slips are perpendicular to

the 61 ft. seawall, which is common in the subject area. The proposed additions would extend the finger pier by 33.6 ft. and add four mooring piles.

The waterway at the subject site is 275 ft. wide from wet face to wet face. The extension would place the end of the pier 68.7 ft. from the property line, with the requested mooring piles ranging as far as 42.9 ft. None of the proposed structures would exceed 25% of the width of the waterway, and no impediments to navigation would occur.

The structures are considered necessary for the safe mooring of vessels, particularly during high wind and severe weather events. They would also protect the vessels from high wave energy caused by excessive boat wakes along the Middle River.

The Applicant has provided letters of support from adjacent neighbors to the north and south, as well as additional letters from surrounding properties. Several existing waivers have been approved in the surrounding area, ranging from 40 ft. to 125 ft. The requested extension would reach, at a maximum, 68.7 ft.

Mr. Flanigan requested clarification of the speed permitted on the waterway near this location. It was clarified that idle speed is permitted.

There being no further questions from the Board at this time, Chair Witten 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. Rebholz, seconded by Mr. Knott, to approve. In a roll call vote, the **motion** passed unanimously (12-0).

Vice Chair Harrison commented that the Middle River is an appropriate waterway for the proposed use, pointing out that boats may be moored in the Mediterranean style on this waterway and there is little commercial activity above the subject site.

X. Dock Waiver – 515 Seabreeze Blvd. / Bryan Redmond, Officer of Hall of Fame SMI Westrac, LLC

Chair Witten commented that the Applicant in this case was requesting the enhancement of an existing marina, including the installation of 651 ft. of concrete marginal dock.

Tyler Chappell, representing the Applicant, stated that there are two docks, north and south, on the subject property, which extend adjacent to the peninsula on which the Swimming Hall of Fame is located. He recalled that the Applicant has come before the Board previously regarding the north dock, which is a floating dock that replaced a fixed dock. He pointed out that the distances referenced in the Application are measured from the eastern property toward the Intracoastal Waterway rather than measured from the peninsula, which is owned by the City. The south dock is also presented for renovation, although it was never granted a Resolution in the past.

Ms. Meurer, also representing the Applicant, showed multiple views of the subject property. Existing structures in the area include a seawall, a dock configuration with multiple finger piers, and mooring piles. The seawall will remain in place, but the mooring piles will be removed. The Applicant proposes to construct a concrete dock with 13 concrete finger piers and 25 boat lifts. The focus of the Application is on the southern portion of the property.

The waterway width in the subject area is over 1000 ft. The furthest extension proposed by the Applicant is 580 ft. Waivers are requested for the concrete dock, finger piers, and boat lifts.

Extraordinary circumstances in the area include the significant distance from wet face to wet face, which is over 1000 ft. The Application's requests would not impede navigation within the New River Sound. The project is considered an enhancement of the marina. It will also provide safe mooring for vessels, particularly in high wind and severe weather events, as well as during high wave energy from excessive boat wakes along the New River Sound and Intracoastal Waterway. Ms. Meurer reviewed existing waivers granted in the subject area.

Ms. Norvell expressed concern with the subject property's proximity to Bahia Mar, requesting clarification of the distance between the older piers to the proposed structures. Mr. Chappell reviewed the site, stating that the existing mooring piles on the property will be removed and replaced by finger piers with boat lifts. Some minor dredging will be necessary in shallow areas. The vessels that will be on the boat lifts are similar in size to the vessels already docked at the property's slips.

Ms. Norvell also asked if there is a restriction on the size of boats that can be docked at the new structure. Mr. Chappell replied that this would depend upon the size of the boat lifts. The Applicant has indicated that these vessels will be in the 40 ft. to 50 ft. range.

Chair Witten noted that the project's footprint would not encroach upon navigation in the waterway.

Mr. Rebholz asked if the renovation is intended to add slips. Mr. Chappell replied that the goal is to place all boats on lifts and to replace existing wooden docks with concrete docks.

Vice Chair Harrison commented that boats will be safer when placed on lifts, and will contribute no pollution to the water from their paint. Placing the boats on lifts will also allow more light to penetrate to seagrass.

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

Mr. Chappell clarified that he has not heard feedback regarding the Fort Lauderdale International Boat Show, but noted that there are portions of the Boat Show's layout which may be affected by the Application. He was not aware of any agreement between the Applicant and the Boat Show at this time.

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. McLaughlin, seconded by Ms. George, to approve. In a roll call vote, the **motion** passed unanimously (12-0).

XI. Dock Waiver – 1368 Bayview Drive / Timothy Mullray

This Item was pulled from the Agenda.

XII. Discussion – New River Navigational Concerns / Dock Waiver Impacts

Chair Witten recalled that several MAB members attended the May 16, 2023 City Commission meeting at which this Item was discussed. After hearing the Board's concerns, the City Commission has requested that the Board answer a number of questions. Chair Witten characterized this as giving five charges to the Board, including:

- Formulation of recommended language for the consideration of a temporary moratorium
- Identification of the physical boundaries of the moratorium
- Clarification of the time period of the moratorium
- Collection of additional feedback from the community
- Suggestion of how the City Commission would handle this issue

Chair Witten stated that he had prepared a potential communication to the Commission addressing these charges, which he presented to the Board members at this time:

The Marine Advisory Board is formally recommending a one-year moratorium on the City issuing any and all waivers for docks, structures, pilings, and/or boat lifts extending into the waterway beyond Code on the New River.

The Board members discussed the proposal, with Mr. Flanigan recalling that they had previously discussed the identification of a channel through a survey. This could possibly lead to future dredging of the waterway. There was additional discussion of where Fort Lauderdale's jurisdiction begins and ends on the New River. Attorney Dunckel clarified that the City's jurisdiction would be restricted to "the north part of the New River."

Patience Cohn, representing the Marine Industries Association of South Florida (MIASF), asked how the Board could ensure that residents of the subject areas are aware of what is being proposed. She added that the ongoing discussion should include residents of affected neighborhoods as well as others who would be affected by the proposal. Chair

Witten advised that the Board's role is to recommend the length of the proposed moratorium to the City Commission, which will then determine how next steps should be addressed. The Board also hopes to work closely with the City Commission and remain involved in the planning of any action.

Ms. Cohn explained that the Commission is likely to ask the Board how they would like to address the charges given to them by the Commission. Chair Witten asserted that the intent of the proposal is for the City to impose a 12-month moratorium on the granting of waivers on specific portions of the New River. He hoped that the Board could then have input and recommendations on this process, which may include Code changes and a survey of the bottom of the waterway.

Vice Chair Harrison observed that this topic should remain an Agenda Item for every Board meeting so it can be discussed in a public workshop format. He noted that the Board will need to define what will be included in this discussion, including a proposed channel, how far a boat may extend into the waterway, and the 30% rule, among other considerations. He felt the discussion should be strictly limited to safe navigation of the New River, and concluded that action by the City typically occurs very slowly, and emphasized the importance of maintaining momentum on this issue.

Vice Chair Harrison continued that the marine industry may be able to assist the City by providing a bathospheric scan, which can indicate where the channel exists in specific areas. He pointed out that while the New River may be very wide the channel may be less so, and may exist more on one side of the waterway than the other. This could affect the distance to which structures or boats may extend from a particular side.

Mr. Flanigan observed that several years ago, the Board had provided photos of problem sites to the City Commission, and had also requested that portions of City waterways be dredged using Florida Inland Navigation District (FIND) and other grant funds. They also encouraged involvement by former and current United States Coast Guard Officers. He concluded that the New River navigation issue represents one of the first times the Board has made progress in proposing changes to the City.

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

John Roth, private citizen, stated that there is an apartment project underway on the south portion of the New River, which he felt would overload the existing bridge structure and ultimately require alternative means of transportation, including the participation of the Water Taxi. He expressed concern with the narrowness of the existing channel on the waterway, particularly with respect to Water Taxi operations. He felt the City Commission should be apprised of these concerns and may wish to designate locations for the operation of this service, such as a Water Taxi dock.

Mr. Roth continued that the existing 30% rule does not contribute to safe navigation on the New River, particularly if vessels are being towed on that waterway. He noted that propeller thrust and water depth are also concerns and must be taken into consideration. He concluded that the recent flood event which occurred in April 2023 may have resulted in more water in the City's waterways than what can be generated by hurricanes, which he felt may have been due to the dumping of stormwater into canals.

Chair Witten strongly encouraged Mr. Roth to be aware of the City Commission's calendar, including the dates on which marine issues will be discussed by that body, as well as remaining aware of the MAB's meeting dates so he can continue to participate in these discussions.

Robert Franks, private citizen, suggested that the Board request a representative of the U.S. Coast Guard attend a future meeting and discuss how that entity regulates the Miami River, including what may be applicable on the New River. Chair Witten recalled that Vice Chair Harrison has also recommended that a Coast Guard Admiral address the MAB.

John Kelly, private citizen, advised that he is the owner of Bradford Marine. He stated that Fort Lauderdale's status as yachting capital of the world is partly due to the services and capabilities provided by its marine industries. He expressed concern that larger vessels will eventually be unable to access these facilities on the New River, and emphasized the importance of having input from marine businesses on this issue.

Mr. Kelly continued that the City's rule requiring the raising of seawall heights is also a concern for navigation, as this work must be done from the water. It can be very difficult to move a barge up the New River to perform this work.

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 Harrison, seconded by Mr. Rebholz, to send this communication up to the City Commissioners, representing our thoughts, along with the idea that we would like to be involved.

Mr. Cuba advised that the City Attorney's Office will also need to review the Board's recommendations before they are submitted to the City Commission.

In a roll call vote, the **motion** passed unanimously (11-0).

XIII. Old / New Business

Chair Witten advised that he had distributed information for dissemination among the Board members regarding a proposed structure in the "Little Florida" community. Vice Chair Harrison further explained that there are concerns from the Florida Department of Environmental Protection (DEP) and other regulatory entities regarding a proposed 25 ft.

observation dock on the tip of this area, which could constitute a choke point on the waterway. He pointed out that because Code permits extensions of up to 25 ft. into the waterway, this proposed structure would not have to come before the Board for approval. The Board members may, however, file objections to the observation dock with DEP.

Vice Chair Harrison encouraged the Board members to both object individually and spread the word to the public and to regulatory entities regarding this proposed structure. He noted that it would be easier to object to construction of the item before it is built than after.

Chair Witten requested feedback from Attorney Dunckel on the Board's role regarding this item. Attorney Dunckel replied that it would be important to take a proactive stance on the issue by having individual members contacting DEP. He strongly emphasized the importance of preventing any cross-communication between Board members on the issue, as this would constitute a Sunshine Law violation. Members of the public may also be encouraged to contact DEP with their concerns.

Mr. Flanigan expressed concern that some regulatory approvals may have already been granted for the structure, and asked if the City Commission can take action, such as a Resolution of opposition and/or formal outreach to those regulatory agencies. Attorney Dunckel suggested that outreach to the Mayor could be helpful. Mr. Chappell added that the Board members may wish to write to Broward County agencies as well as DEP to share their concerns with the proposal, as the square footage of the structure could make it exempt from DEP requirements but subject to County requirements.

Ms. Cohn stated that the structure will require a City building permit, which could provide an opportunity for objection from the public or other entities. She has also spoken to the Coast Guard, which has contacted the U.S. Army Corps of Engineers to express concerns with the permitting of the structure.

Mr. Brunelle suggested that business owners located on the New River may wish to reach out to share their concerns with the individual who is planning the structure. He pointed out that Code would allow the construction of the observation dock. It was also suggested that the property owner in question could be invited to attend a Board meeting. Ms. Norvell noted that there may be extraordinary circumstances for the City as well as for individual property owners. Mr. Brunelle concluded that the ongoing discussion of the proposed moratorium may result in the recommendation of Code changes in specific areas on the waterway.

Chair Witten recommended that this discussion also be placed on the next month's Agenda. Mr. Cuba emphasized that any outreach to the property owner in question, or to members of the public, must be done on an individual basis rather than in representation of the Board.

XIV. Adjournment

Marine Advisory Board

June 1, 2023

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There being no further business to come before the Board at this time, the meeting was adjourned at 8:25 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.]

ITEM XII

MEMORANDUM MF NO. 23-18

DATE: June 7, 2023

TO: Marine Advisory Board

FROM: Andrew Cuba, Marine Facilities Manager

RE: July 21, 2023 MAB – Continuation of Discussion – New River Navigational Concerns / Moratorium Update

At the April 6, 2023 Marine Advisory Board meeting, a Communication to Commission was issued recommending a temporary moratorium of dock waivers along the New River. At the May 2, 2023 City Commission Conference Meeting, the Commission recommended a joint Commission/MAB Workshop be held. This May 16th, 2023 Workshop resulted in recommendation to hold a public forum to develop language for the City's Legal Department to consider for a 'Temporary Moratorium Ordinance', incorporating both boundaries and duration.

Following the June 1, 2023 MAB, a document was assembled incorporating input from the public and the board (1st attach). This was forwarded to the City's Legal Department for review and guidance. Thereafter, an additional Communication to the Commission (2nd attach) was reviewed on June 20, 2023. The City Commission unanimously supported the MAB's New River temporary moratorium recommendation.

This evening's discussion will focus on Moratorium Ordinance considerations.

AC
Attachment

cc: Enrique Sanchez, Parks and Recreation Deputy Director
Jon Luscomb, Marine Facilities Supervisor

The May 16, 2023 joint City Commission/Marine Advisory Board workshop resulted in the following recommendations:

- 1. Public forum (such as MAB) to formulate recommended language for the City's Legal Department to consider for a 'Temporary Moratorium' Ordinance.*
- 2. Recommended language must identify physical boundaries (area) of the moratorium.*
- 3. The language must define the duration of the moratorium, include feedback from the community, and maintain property rights of waterfront stakeholders.*
- 4. Thereafter, Legal will review recommended language and formulate ordinances for consideration.*
- 5. When enacted, during the moratorium, solutions will be identified for recommendation to maintain balance between the Marine Industry and waterfront landowners.*

The Marine Advisory Board formally recommends:

- A one-year moratorium on the city issuing any & all waivers for docks, structures, pilings and/or boat lifts, extending into the waterway beyond current code on the New River.

Areas on the New River to be included, e.g., the “formal boundaries” are:

- Easternmost: Sospiro Canal/Mola Avenue (by marker 10)
 - South side: Cordova Road/Rio Cordova
 - North side: NW corner Sospiro Canal/Mola Avenue
- Westernmost: Albacore Canal / Andros Lane (a.k.a. SW 32nd Avenue)
 - South side: Roscioli Yachting Center
 - North side: SW corner of Albacore Canal / Andros Lane (a.k.a. SW 32nd Avenue)

The MAB will include continued discussion on the topic (“New River Navigation & Safety”) as a monthly agenda item for feedback from the board, public and city.

The board will also work closely with the public, city commission and staff to ensure that everyone receives equal and fair treatment with the goal of safe navigation of the New River.

Respectfully submitted, June 1, 2023



CITY OF FORT LAUDERDALE

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

FORT LAUDERDALE FIRE RESCUE DEPARTMENT – STATION #2

528 NW 2ND STREET, FORT LAUDERDALE, FLORIDA 33311

3RD FLOOR CONFERENCE ROOM

THURSDAY, JUNE 1, 2023 – 6:00 P.M.

**Cumulative Attendance
January-December 2023**

Steve Witten, Chair	P	5	0
James Harrison, Vice Chair	P	4	1
Michael Boyer	P	4	1
Tyler Brunelle	P	3	0
Robyn Chiarelli (6:14-8:12)	P	3	2
Barry Flanigan	P	5	0
Elisabeth George	P	5	0
Brewster Knott	P	4	1
Norbert McLaughlin	P	5	0
Noelle Norvell	P	3	2
Ed Rebholz (arr. 7:00)	P	2	0
Robert Washington	P	2	0

As of this date, there are 12 appointed members to the Board, which means 7 would constitute a quorum.

Staff

- Andrew Cuba, Marine Facilities Manager
- Jonathan Luscomb, Marine Facilities Supervisor
- Sergeant Travis O’Neil, Fort Lauderdale Police Department
- Bob Dunckel, Assistant City Attorney
- Carla Blair, Recording Secretary, Prototype, Inc.

Communications to City Commission

Motion made by Vice Chair Harrison, seconded by Mr. Rebholz, to send this communication up to the City Commissioners, representing our thoughts, along with the idea that we would like to be involved:

The Marine Advisory Board is formally recommending a one-year moratorium on the City issuing any and all waivers for docks, structures, pilings, and/or boat lifts extending into the waterway beyond Code on the New River.

In a roll call vote, the **motion** passed unanimously (11-0).



CITY OF FORT LAUDERDALE

DRAFT
MEETING MINUTES
CITY OF FORT LAUDERDALE
MARINE ADVISORY BOARD
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In a roll call vote, the **motion** passed unanimously (11-0).

I. Call to Order / Roll Call

The meeting was called to order at 6:00 p.m. and roll was taken.

II. Approval of Minutes – April 6, 2023

Motion made by Ms. George, seconded by Mr. Harrison, 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. Marine Advisory Board Elections

• **Chair / Vice Chair**

Mr. Flanigan nominated Mr. Witten as Chair. Ms. George seconded the nomination. In a roll call vote, Mr. Witten was unanimously elected Chair.

Mr. Flanigan nominated Mr. Harrison as Vice Chair. Ms. George seconded the nomination. In a roll call vote, Mr. Harrison 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 for April and May 2023:

- 2 burglaries
- 121 citations
- 7 boating accidents

Sgt. O'Neil also noted that the Air and Sea Show was a success, with no serious issues or incidents.

VI. Dock Waiver – 831 Solar Isle / Philip G. Jr. & Oma Jean Mavon

Chair Witten advised that the request is for the installation of a no-profile boat lift, as well as for finger piers extending the maximum distance allowed into the water. Walter Morgan, representing the Applicants, stated that when the subject property was originally acquired, the owner had secured a dock permit for one of two parcels before a basin was constructed. They applied for a permit in 2010 and constructed a new seawall on the basin.

Mr. Morgan asserted that when the Marine Advisory Board (MAB) had recommended a waiver for the property in 2010, the City had “refused to finish the hearing that came before [the MAB]” and did not hear or approve the item at that time, which meant the waiver was not granted. In 2013, the City Commission heard and discussed the item, and it was determined that the owner’s two adjacent parcels would be legally joined.

Mr. Morgan continued that the unity of title was approved by the Florida Attorney’s Office and recorded. There were no further issues with the property until the owner’s original boat, for which the basin had been designed, was replaced by an outboard vessel and the Applicants also wished to install a boat lift. After the permit was secured, the piers constructed, and the boat lift installed, however, a neighboring property owner filed suit against the City, which meant the item was required to go before the City’s Board of Adjustment (BOA). Because the unity of title was not attached to that application, the BOA voted that the permit had been issued in error and the Applicants were required to dismantle the boat lift.

Mr. Morgan concluded that the Applicants were present, with the unity of title documentation as well as an affidavit by the previous City Attorney, to request a permit for the reinstallation of their boat lift. The Application meets all requirements of the City’s Unified Land Development Regulations (ULDR), including the requirement for a principal upland structure, due to the unity of title. He added that both the previous and current City Attorneys agree that bringing the Application before the Marine Advisory Board (MAB) is the best way to correct this issue.

Mr. Morgan called the Board’s attention to Exhibit 4 of the Application, in which he had recommended the Applicants file a new permit application in 2022. The reason given for the failure to approve the previous permit was solely due to the BOA’s ruling that there was no principal upland structure on the property.

Chair Witten asked if the boat lift shown on renderings of the site is considered abandoned. Mr. Morgan confirmed this, as the boat lift had been permitted and installed but was then ordered to be removed. The boat lift currently proposed by the Application is a low-profile lift which allows the owners to access the boat directly from the dock.

Chair Witten commented that he felt the MAB is being asked to comment on the status of the upland structure. The Board may comment on the legality of the lift and pier that are being proposed to ensure that they are compliant with Code, and may recommend approval or disapproval of a waiver for those items. He requested that the Applicants’ representative clarify this further.

Mr. Morgan explained that the requested waiver states no docks or moorings can be granted unless there is a principal upland structure on the subject property. He reiterated that circuit court had addressed this issue and found that the City should grant the waiver request. Mr. Morgan noted that this was followed by the required

combination of the Applicants' two properties into a single property, which was recorded and executed in 2013.

Mr. Flanigan commented that he did not see the unity of title to be a question. The Applicant is currently requesting to replace the boat lift they had dismantled in compliance with the City's previous ruling. The proposed pilings would not extend any further into the waterway than the previous pilings.

Vice Chair Harrison asked if a boat is currently docked at the property. Mr. Morgan confirmed that a 33 ft. boat has been docked at the property for several years. He reiterated that the boat lift shown on the renderings has been dismantled and is unusable.

It was asked why the dock extension would be necessary. Mr. Morgan replied that the current Application proposes only that the docks be rebuilt to the size that had been previously permitted, before that permit was voided. The docks must be re-permitted due to the void.

Mr. McLaughlin requested clarification of the extension of the docks. Mr. Morgan advised that the north dock was built at 23 ft. 7 in. with no extension; however, this represented an extension from the original basin, in which the dock was permitted at 16 ft. The Applicants are hoping to re-permit the north dock so it can remain at its current length. The south dock is at 10 ft. 8 in.

Clarification was requested regarding the neighbor's objection to the structures. Mr. Morgan declared that a neighbor to the south of the subject property owns a boat which extends further into the waterway than the Applicant's boat. He confirmed that the Applicants do not plan to purchase a larger boat that would extend further into the waterway and potentially impede navigation.

Mr. McLaughlin observed that there are no issues with the boat currently docked in the slip; furthermore, removing that boat from the water in the same location would be an environmentally sound practice. The lift would not extend the boat any further into the waterway.

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

Kenneth Taylor, private citizen, stated that he lives north and to the west of the Applicants' property. He asserted that most of the neighbors to whom he has spoken are opposed to the Application. His primary concern was that the request is not for a dock, but for finger piers extending in perpendicular position from the Applicants' seawall. He did not feel this was adequately reflected in the Applicants' renderings.

Mr. Taylor continued that these piers will constitute navigational hazards on the canal, noting that one will extend approximately 23.5 ft. into the waterway. He added that while there are other boats on the canal, their beams are narrower than the beam of the Applicants' boat, which would extend past their neighbor's dock. He concluded that the subject property was a "point lot" on the Intracoastal Waterway that consisted of a 25 x 25 ft. parcel, and that if the current Application is approved, there would be nothing to prevent the owners from taking further action on the property.

Chair Witten advised that the Board did not find the Applicants' renderings of the finger piers to be misleading, nor have there been reports of accidents involving the structure. While he felt the Board should ensure the structure is properly lighted or marked for safety, the Board is only asked to comment on the current request.

Mr. Taylor pointed out that the previous permit for the finger piers was revoked and the structures were supposed to have been removed along with the previous boat lift. Chair Witten explained that the Board does not approve waivers, but makes recommendations on their approval to the City Commission.

Michele Primean Taylor, private citizen, stated that she represented two adjacent neighbors of the subject property, who also oppose the Application but are out of town. She also pointed out that no Code violations have been issued for the property and the Applicants have not been required to remove structures, which is of concern to the individuals she represents.

Mr. Morgan advised that owners may extend structures to a distance of 25 ft. to 30 ft. in the canal on which the Applicants' property is located, although the finger piers extend no farther than 23 ft. 7 in., as recorded in their earlier permit. He reiterated that no order for the piers' removal was issued, although the boat lift was required to be dismantled.

Assistant City Attorney Bob Dunckel stated that a vessel may extend up to 30% into the width of a canal. He also noted that the finger piers, which extend 23 ft. 7 in., are permitted by right and are not part of the waiver request: the request is for a waiver for the lack of a principal structure, which has been satisfied by unity of title.

Bruce Taylor, private citizen, stated that the length of the Applicants' boat is 33 ft., which would extend into the navigable waterway. It was clarified that the first 25 ft. of the boat's length would be inside the property line, leaving only the remaining 8 ft. to extend.

Mr. McLaughlin requested clarification of the canal width in the subject area. It was noted that this distance is 100 ft.

As there were no other individuals wishing to speak on the Item, the Chair closed the public hearing and brought the discussion back to the Board.

Vice Chair Harrison commented that he felt the issue is outside the Board's purview, as it refers to the status of the upland structure, which is not a waterway issue. He felt the question was more appropriately left to the City Commission. He noted that if a boat can be docked at a site, a boat lift should be permitted as well; however, he did not believe the Board should make a recommendation. Mr. Cuba confirmed that the Board is asked to determine whether or not the lack of a principal upland structure is an issue.

Attorney Dunckel recalled that when an Application for the subject property came before the Board in 2010, their recommendation had been to approve the waiver due to the lack of a principal structure, but had not approved the request for a boat lift. He continued that the Board is currently being asked for a recommendation on a waiver with a lack of principal structure. If they find that evidence has been presented which demonstrates no extraordinary circumstances, they would need to recommend denial of the waiver request.

Mr. Flanigan recalled that the unity of title has been granted, and was approved when the original waiver application came before the Board in 2010.

Mr. McLaughlin asked if the existing piers have been re-permitted, or if they should have been removed. Mr. Morgan stated that no order for the piers' removal was issued; however, the Applicants needed to have them re-permitted in order to keep them. He added that their removal was not a prerequisite for re-application. He concluded that if the City Commission does not grant the waiver application, the Applicants will have no right to retain their existing finger piers.

Mr. McLaughlin observed that he felt the Applicants should go before the City Commission to secure the permit that would make their existing two piers legal, or to determine that the two existing piers must be removed and replaced with a new permit, before coming before the MAB for a recommendation on the boat lift. Mr. Morgan advised that the City has taken the position that if the Applicants "qualify for the waiver and for the new permit," there would be no reason to go to the further expense of removing and replacing the piers.

Chair Witten observed that the Board is not asked to vote on the legality of the structure, but to send it to the City Commission. Vice Chair Harrison characterized the question as whether or not the Board agrees the boat lift could be constructed on the property, if the property is one on which a boat lift is allowed.

Attorney Dunckel further clarified that in addition to the current unity of title, the ULDR allows for a waiver for lack of a principal upland structure with regard to the construction of docks. He felt that there is enough information before the Board for them to vote on a recommendation to the City Commission.

Motion made by Mr. Flanigan, seconded by Mr. Brunelle, approving the waiver as to the lack of a principal structure and permitting a boat lift. In a roll call vote, the **motion** passed 9-3 (Ms. George, Ms. Norvell, and Mr. Washington dissenting).

VII. Dock Waiver – 321 N. Birch Road / Lee J. Engler – Trustee of the Lee J. Engler Qualified Personal Residence Trust & Patti 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) / 321 N. Birch Road, PH 3

Steve Tilbrook, representing the Applicants, showed a PowerPoint presentation on the request, which is made by four slip owners who reside at 321 N. Birch Road. The Application requests the removal of two permitted boat lifts and their replacement with two floating docks. The Applicants and their representatives have worked closely with their neighbors, who have submitted a letter of no objection to the removal of a pier.

Jena Robbins, also representing the Applicants, showed several photographs of the site, which currently includes a concrete dock, a seawall, two finger piers, and both single mooring piles and triple pile clusters, as well as a no-profile boat lift. The finger piers extend 25 ft. from the property line and the boat on the lift is approximately 55 ft. from the property line. The mooring piles extend a maximum of 75 ft. into the waterway.

Ms. Robbins continued that there are four slips on the subject property, as well as a 4 ft. wide marginal dock and 4 ft. wide finger piers. The boat lift which extends 55 ft. from the property line was approved by Resolution in 2021. Another boat lift was also approved by Resolution in the same year. The mooring piles and triple pile clusters were permitted by Resolution in 2014.

The Applicants request a waiver to remove the existing finger piers and install two floating docks which are roughly 50 ft. long and 8 ft. wide. The existing finger piers pose a safety hazard and would be removed and replaced by the floating docks.

There is one 20 ft. long finger pier on the north side of the subject property, which was proposed as a fixed finger pier. The Applicants are willing to remove this structure in order to improve navigation in the area. Ms. Robbins showed a rendering of the proposed changes overlaid on existing conditions at the site. The waiver is requested for the two floating docks to extend a maximum of 57 ft. from the property line. The Intracoastal Waterway is approximately 562 ft. in width at the subject location, which means the proposed structures are well within the 25% extension limit.

The waiver is requested because all proposed structures will not exceed 25% of the width of the waterway and will not impede navigation. The floating docks are necessary to safely moor the residents' vessels, particularly during high winds, excessive waves, and other severe weather events. The floating docks will be concrete breakwater docks, which will help mitigate excessive wave action. The Applicants would prefer these docks

to their boat lifts, as there have been incidents in which individuals were injured when they fell between the docks and the boats. The floating docks are consistent with other previously authorized structures.

Multiple residents from within the same building as the Applicants have provided letters of support, as has a neighbor to the south.

Ms. George commented that she did not object to the Application, but noted that the building has only existed on the site since 2020. She requested additional information regarding the 2014 approval of mooring piles at 75 ft. into the waterway. Mr. Tilbrook advised that the project took several years to implement due to litigation from neighboring properties. The permits were granted after the litigation was resolved.

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

Tim Goligoski, vice president of the Florida Apartments, Inc., a seven unit cooperative located north of the subject property, noted that the Applicants have agreed to remove the existing finger pier as part of the Application. This is the result of discussions between the cooperative board and the Applicants' representatives.

Mr. Goligoski distributed photos of the area, pointing out that north of the subject property, there is a large bend in the waterway. He identified the finger pier the Applicants have agreed to remove, concluding that residents of his cooperative do not oppose the Application as long as that structure is removed.

As there were no other individuals wishing to speak on the Item, the Chair closed the public hearing and brought the discussion back to the Board.

Mr. Cuba advised that he would need a new plan from the Applicants which shows the removal of the finger pier prior to submission of the Application to the City Commission.

Motion made by Vice Chair Harrison, seconded by Ms. George, to approve with the condition that the finger pier be removed. In a roll call vote, the **motion** passed unanimously (12-0).

VIII. Dock Waiver – 435 Bayshore Drive / William Prescott

This Item was removed from the Agenda.

IX. Dock Waiver – 900 / 910 NE 20th Avenue / Michael Binder; F&B Waterfront, LLC

Chair Witten noted that the Applicant of this Item is requesting the installation of a wooden dock extension and four mooring piles.

Katherine Meurer, representing the Applicant, showed a PowerPoint presentation on the Application, including multiple views of the site. The northern portion of the property includes a seawall, dock configuration, and mooring piles. The slips are perpendicular to the 61 ft. seawall, which is common in the subject area. The proposed additions would extend the finger pier by 33.6 ft. and add four mooring piles.

The waterway at the subject site is 275 ft. wide from wet face to wet face. The extension would place the end of the pier 68.7 ft. from the property line, with the requested mooring piles ranging as far as 42.9 ft. None of the proposed structures would exceed 25% of the width of the waterway, and no impediments to navigation would occur.

The structures are considered necessary for the safe mooring of vessels, particularly during high wind and severe weather events. They would also protect the vessels from high wave energy caused by excessive boat wakes along the Middle River.

The Applicant has provided letters of support from adjacent neighbors to the north and south, as well as additional letters from surrounding properties. Several existing waivers have been approved in the surrounding area, ranging from 40 ft. to 125 ft. The requested extension would reach, at a maximum, 68.7 ft.

Mr. Flanigan requested clarification of the speed permitted on the waterway near this location. It was clarified that idle speed is permitted.

There being no further questions from the Board at this time, Chair Witten 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. Rebholz, seconded by Mr. Knott, to approve. In a roll call vote, the **motion** passed unanimously (12-0).

Vice Chair Harrison commented that the Middle River is an appropriate waterway for the proposed use, pointing out that boats may be moored in the Mediterranean style on this waterway and there is little commercial activity above the subject site.

X. Dock Waiver – 515 Seabreeze Blvd. / Bryan Redmond, Officer of Hall of Fame SMI Westrac, LLC

Chair Witten commented that the Applicant in this case was requesting the enhancement of an existing marina, including the installation of 651 ft. of concrete marginal dock.

Tyler Chappell, representing the Applicant, stated that there are two docks, north and south, on the subject property, which extend adjacent to the peninsula on which the Swimming Hall of Fame is located. He recalled that the Applicant has come before the

Board previously regarding the north dock, which is a floating dock that replaced a fixed dock. He pointed out that the distances referenced in the Application are measured from the eastern property toward the Intracoastal Waterway rather than measured from the peninsula, which is owned by the City. The south dock is also presented for renovation, although it was never granted a Resolution in the past.

Ms. Meurer, also representing the Applicant, showed multiple views of the subject property. Existing structures in the area include a seawall, a dock configuration with multiple finger piers, and mooring piles. The seawall will remain in place, but the mooring piles will be removed. The Applicant proposes to construct a concrete dock with 13 concrete finger piers and 25 boat lifts. The focus of the Application is on the southern portion of the property.

The waterway width in the subject area is over 1000 ft. The furthest extension proposed by the Applicant is 580 ft. Waivers are requested for the concrete dock, finger piers, and boat lifts.

Extraordinary circumstances in the area include the significant distance from wet face to wet face, which is over 1000 ft. The Application's requests would not impede navigation within the New River Sound. The project is considered an enhancement of the marina. It will also provide safe mooring for vessels, particularly in high wind and severe weather events, as well as during high wave energy from excessive boat wakes along the New River Sound and Intracoastal Waterway. Ms. Meurer reviewed existing waivers granted in the subject area.

Ms. Norvell expressed concern with the subject property's proximity to Bahia Mar, requesting clarification of the distance between the older piers to the proposed structures. Mr. Chappell reviewed the site, stating that the existing mooring piles on the property will be removed and replaced by finger piers with boat lifts. Some minor dredging will be necessary in shallow areas. The vessels that will be on the boat lifts are similar in size to the vessels already docked at the property's slips.

Ms. Norvell also asked if there is a restriction on the size of boats that can be docked at the new structure. Mr. Chappell replied that this would depend upon the size of the boat lifts. The Applicant has indicated that these vessels will be in the 40 ft. to 50 ft. range.

Chair Witten noted that the project's footprint would not encroach upon navigation in the waterway.

Mr. Rebholz asked if the renovation is intended to add slips. Mr. Chappell replied that the goal is to place all boats on lifts and to replace existing wooden docks with concrete docks.

Vice Chair Harrison commented that boats will be safer when placed on lifts, and will contribute no pollution to the water from their paint. Placing the boats on lifts will also allow more light to penetrate to seagrass.

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

Mr. Chappell clarified that he has not heard feedback regarding the Fort Lauderdale International Boat Show, but noted that there are portions of the Boat Show's layout which may be affected by the Application. He was not aware of any agreement between the Applicant and the Boat Show at this time.

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. McLaughlin, seconded by Ms. George, to approve. In a roll call vote, the **motion** passed unanimously (12-0).

XI. Dock Waiver – 1368 Bayview Drive / Timothy Mullray

This Item was pulled from the Agenda.

XII. Discussion – New River Navigational Concerns / Dock Waiver Impacts

Chair Witten recalled that several MAB members attended the May 16, 2023 City Commission meeting at which this Item was discussed. After hearing the Board's concerns, the City Commission has requested that the Board answer a number of questions. Chair Witten characterized this as giving five charges to the Board, including:

- Formulation of recommended language for the consideration of a temporary moratorium
- Identification of the physical boundaries of the moratorium
- Clarification of the time period of the moratorium
- Collection of additional feedback from the community
- Suggestion of how the City Commission would handle this issue

Chair Witten stated that he had prepared a potential communication to the Commission addressing these charges, which he presented to the Board members at this time:

The Marine Advisory Board is formally recommending a one-year moratorium on the City issuing any and all waivers for docks, structures, pilings, and/or boat lifts extending into the waterway beyond Code on the New River.

The Board members discussed the proposal, with Mr. Flanigan recalling that they had previously discussed the identification of a channel through a survey. This could possibly lead to future dredging of the waterway. There was additional discussion of

where Fort Lauderdale's jurisdiction begins and ends on the New River. Attorney Dunckel clarified that the City's jurisdiction would be restricted to "the north part of the New River."

Patience Cohn, representing the Marine Industries Association of South Florida (MIASF), asked how the Board could ensure that residents of the subject areas are aware of what is being proposed. She added that the ongoing discussion should include residents of affected neighborhoods as well as others who would be affected by the proposal. Chair Witten advised that the Board's role is to recommend the length of the proposed moratorium to the City Commission, which will then determine how next steps should be addressed. The Board also hopes to work closely with the City Commission and remain involved in the planning of any action.

Ms. Cohn explained that the Commission is likely to ask the Board how they would like to address the charges given to them by the Commission. Chair Witten asserted that the intent of the proposal is for the City to impose a 12-month moratorium on the granting of waivers on specific portions of the New River. He hoped that the Board could then have input and recommendations on this process, which may include Code changes and a survey of the bottom of the waterway.

Vice Chair Harrison observed that this topic should remain an Agenda Item for every Board meeting so it can be discussed in a public workshop format. He noted that the Board will need to define what will be included in this discussion, including a proposed channel, how far a boat may extend into the waterway, and the 30% rule, among other considerations. He felt the discussion should be strictly limited to safe navigation of the New River, and concluded that action by the City typically occurs very slowly, and emphasized the importance of maintaining momentum on this issue.

Vice Chair Harrison continued that the marine industry may be able to assist the City by providing a bathospheric scan, which can indicate where the channel exists in specific areas. He pointed out that while the New River may be very wide the channel may be less so, and may exist more on one side of the waterway than the other. This could affect the distance to which structures or boats may extend from a particular side.

Mr. Flanigan observed that several years ago, the Board had provided photos of problem sites to the City Commission, and had also requested that portions of City waterways be dredged using Florida Inland Navigation District (FIND) and other grant funds. They also encouraged involvement by former and current United States Coast Guard Officers. He concluded that the New River navigation issue represents one of the first times the Board has made progress in proposing changes to the City.

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

John Roth, private citizen, stated that there is an apartment project underway on the south portion of the New River, which he felt would overload the existing bridge structure and ultimately require alternative means of transportation, including the participation of the Water Taxi. He expressed concern with the narrowness of the existing channel on the waterway, particularly with respect to Water Taxi operations. He felt the City Commission should be apprised of these concerns and may wish to designate locations for the operation of this service, such as a Water Taxi dock.

Mr. Roth continued that the existing 30% rule does not contribute to safe navigation on the New River, particularly if vessels are being towed on that waterway. He noted that propeller thrust and water depth are also concerns and must be taken into consideration. He concluded that the recent flood event which occurred in April 2023 may have resulted in more water in the City's waterways than what can be generated by hurricanes, which he felt may have been due to the dumping of stormwater into canals.

Chair Witten strongly encouraged Mr. Roth to be aware of the City Commission's calendar, including the dates on which marine issues will be discussed by that body, as well as remaining aware of the MAB's meeting dates so he can continue to participate in these discussions.

Robert Franks, private citizen, suggested that the Board request a representative of the U.S. Coast Guard attend a future meeting and discuss how that entity regulates the Miami River, including what may be applicable on the New River. Chair Witten recalled that Vice Chair Harrison has also recommended that a Coast Guard Admiral address the MAB.

John Kelly, private citizen, advised that he is the owner of Bradford Marine. He stated that Fort Lauderdale's status as yachting capital of the world is partly due to the services and capabilities provided by its marine industries. He expressed concern that larger vessels will eventually be unable to access these facilities on the New River, and emphasized the importance of having input from marine businesses on this issue.

Mr. Kelly continued that the City's rule requiring the raising of seawall heights is also a concern for navigation, as this work must be done from the water. It can be very difficult to move a barge up the New River to perform this work.

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 Harrison, seconded by Mr. Rebholz, to send this communication up to the City Commissioners, representing our thoughts, along with the idea that we would like to be involved.

Mr. Cuba advised that the City Attorney's Office will also need to review the Board's recommendations before they are submitted to the City Commission.

In a roll call vote, the **motion** passed unanimously (11-0).

XIII. Old / New Business

Chair Witten advised that he had distributed information for dissemination among the Board members regarding a proposed structure in the “Little Florida” community. Vice Chair Harrison further explained that there are concerns from the Florida Department of Environmental Protection (DEP) and other regulatory entities regarding a proposed 25 ft. observation dock on the tip of this area, which could constitute a choke point on the waterway. He pointed out that because Code permits extensions of up to 25 ft. into the waterway, this proposed structure would not have to come before the Board for approval. The Board members may, however, file objections to the observation dock with DEP.

Vice Chair Harrison encouraged the Board members to both object individually and spread the word to the public and to regulatory entities regarding this proposed structure. He noted that it would be easier to object to construction of the item before it is built than after.

Chair Witten requested feedback from Attorney Dunckel on the Board’s role regarding this item. Attorney Dunckel replied that it would be important to take a proactive stance on the issue by having individual members contacting DEP. He strongly emphasized the importance of preventing any cross-communication between Board members on the issue, as this would constitute a Sunshine Law violation. Members of the public may also be encouraged to contact DEP with their concerns.

Mr. Flanigan expressed concern that some regulatory approvals may have already been granted for the structure, and asked if the City Commission can take action, such as a Resolution of opposition and/or formal outreach to those regulatory agencies. Attorney Dunckel suggested that outreach to the Mayor could be helpful. Mr. Chappell added that the Board members may wish to write to Broward County agencies as well as DEP to share their concerns with the proposal, as the square footage of the structure could make it exempt from DEP requirements but subject to County requirements.

Ms. Cohn stated that the structure will require a City building permit, which could provide an opportunity for objection from the public or other entities. She has also spoken to the Coast Guard, which has contacted the U.S. Army Corps of Engineers to express concerns with the permitting of the structure.

Mr. Brunelle suggested that business owners located on the New River may wish to reach out to share their concerns with the individual who is planning the structure. He pointed out that Code would allow the construction of the observation dock. It was also suggested that the property owner in question could be invited to attend a Board meeting. Ms. Norvell noted that there may be extraordinary circumstances for the City

as well as for individual property owners. Mr. Brunelle concluded that the ongoing discussion of the proposed moratorium may result in the recommendation of Code changes in specific areas on the waterway.

Chair Witten recommended that this discussion also be placed on the next month's Agenda. Mr. Cuba emphasized that any outreach to the property owner in question, or to members of the public, must be done on an individual basis rather than in representation of the Board.

XIV. Adjournment

There being no further business to come before the Board at this time, the meeting was adjourned at 8:25 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.]