



CITY OF FORT LAUDERDALE

**MEETING MINUTES
CITY OF FORT LAUDERDALE
MARINE ADVISORY BOARD
FORT LAUDERDALE FIRE RESCUE DEPARTMENT
528 NW 2ND STREET, STATION #2
FORT LAUDERDALE, FLORIDA 33311
3RD FLOOR CONFERENCE ROOM
THURSDAY, NOVEMBER 6, 2025 – 6:00 P.M.**

**Cumulative Attendance
May 2025-April 2026**

Steve Witten, Chair	P	5	0
Robert Washington, Vice Chair	P	5	0
Norm Bekoff	P	4	1
Tyler Brunelle	P	5	0
Jeffrey Coburn	P	5	0
Courtney Day	P	1	0
Jason Dunbar (via Zoom)	P	5	0
Barry Flanigan	P	3	2
Robert Franks	P	4	1
John Lynch	P	4	1
Sam Mitchell	P	2	0
Ted Morley	P	2	0
Dr. Bret Ribotsky (via Zoom)	P	4	0
Bob Swindell	P	3	2
LaRhonda Ware	P	5	0

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

Staff

- Andrew Cuba, Marine Facilities Manager
- Marco Aguilera, Chief Waterways Officer
- Bob Dunckel, Assistant City Attorney
- Sergeant Travis O’Neal, Marine Unit
- Captain Chad Robertson, Fire Rescue
- Edward Eason, Code Compliance Officer
- Dr. Nancy Gassman, Deputy Director of Parks and Recreation/Chief Resilience Officer
- N. Day, Recording Clerk, Prototype, Inc.

Communications to City Commission

None.

I. Call to Order / Roll Call

Chair Witten called the meeting to order at 6:08 p.m.

**II. Statement of Quorum
Introduction of New Member – Courtney Day**

Roll was called and it was noted a quorum was present.

New Board member Courtney Day introduced himself at this time.

III. Approval of Minutes – September 4, 2025

Motion made by Mr. Swindell, seconded by Mr. Mitchell, to approve as distributed. In a voice vote, the **motion** passed unanimously.

**IV. Waterway Crime & Boating Safety Reports
Sgt. Travis O’Neal (FLPD) / Capt. Chad Robertson (Fire Rescue) / Edward Eason (Code)**

Sergeant Travis O’Neal of the Fort Lauderdale Police Department’s Marine Unit reported the following activity over the past two months:

- 3 electronics burglaries, 2 of which were in the SE 12th Street area; Police are surveilling and patrolling this area
- 1 Downtown burglary followed by arrest
- 2 counts of burglary and attempted theft of a boat docked in a marina

The Fort Lauderdale International Boat Show was a success with no issues.

The Marine Unit has begun enforcement of an Ordinance affecting anchored/”live-aboard” vessels, which has significantly diminished the number of boats anchored in City waterways. Four individuals have been charged with violation of the Ordinance thus far.

Chair Witten advised that the City’s new pump-out boat has received a great deal of positive press in print and other media. He emphasized the positive effects of this boat in keeping the City’s waterways clean.

Mr. Mitchell asked if it is possible for the North Fork River to be patrolled beyond the Broward Boulevard Bridge. Sgt. O’Neal confirmed this. Mr. Mitchell explained that he had been advised the Broward Sheriff’s Office (BSO) is reluctant to arrest vagrants in that area. Chief Waterways Officer Marco Aguilera stated that this property is owned by the Florida Department of Transportation (FDOT), which has been made aware of the situation in the area and is working with law enforcement to coordinate removal of people and disposal of trash.

Mr. Mitchell requested monthly updates on activity at the North Fork River. Sgt. O'Neal replied that he would need to schedule patrols. He estimated that this may be possible by January 2026.

Code Compliance Officer Edward Eason reported the following activity:

- Property cited for rafting of a boat and extension beyond the 5 ft. setback; the property has been scheduled for a Special Magistrate hearing

Chair Witten asked if this violation was the result of a complaint or was spotted during patrol. Officer Eason replied that most violations are complaint-driven, although Code Compliance often catches rafting on its own. Side setback violations are not proactively enforced, as these typically involve two adjacent neighbors; however, waterway encroachment affects the general public and is approached proactively.

Captain Chad Robertson of Fort Lauderdale Fire Rescue reported the following activity:

- 23 Fire Boat calls
- Overturned vessel during the Boat Show
- Boat accident in Hillsboro Beach with no injuries
- Fully engulfed boat which sank near Dania Beach

During the Boat Show, Fire Rescue received 48 calls and transported five individuals for emergency services.

V. Good and Welfare – News, Updates, Scuttlebutt

Chair Witten recalled that two waivers came before the Board in September 2025, one on Harbor Drive and one on Sunset Drive. Both have been approved by the City Commission.

Chair Witten also reported that the Florida Fish and Wildlife Commission (FWC) has unanimously approved a final rule establishing a restricted boating area in Broward County. He thanked the Board members for their work and support on this issue, concluding that he would like to invite representatives of FWC to a meeting in the future.

Chair Witten continued that life jackets in several sizes will be donated for placement at boat launches.

Tortuga Fest is scheduled for April 10-12, 2025 and tickets are available.

Mr. Flanigan advised that this will be the 54th year of the Winterfest Boat Parade. Some changes are underway, including an earlier start at 6 p.m. The parade has a 12-mile route and is free to the public. Residents wishing to participate in the parade may register their boats for \$35.

Chair Witten noted that two Board members are participating remotely via Zoom at tonight's meeting, and advised that a motion would be necessary to allow them to vote on Items before the Board.

Motion made by Mr. Morley, seconded by Mr. Mitchell, to allow these folks to participate remotely. In a voice vote, the **motion** passed unanimously.

Chair Witten advised the Board members that 2026 meeting dates were provided in their information packets. The January 2026 meeting has been rescheduled to Wednesday, January 7 to avoid conflict with the New Year holiday, and the July 3 meeting has been rescheduled for July 1.

VI. *Update on Waterway Quality – Impact from Recent King Tides – Maintenance Dredging*
Dr. Nancy Gassman, Deputy Director of Parks & Rec.; Chief Resilience Officer

Deputy Director of Parks and Recreation/Chief Resilience Officer Dr. Nancy Gassman explained that after hearing the Board's concerns in September 2026, she had secured a document from Broward County which provided some history of work on the North Fork River. She noted that there were discharges of treated wastewater into the waterway from package plants in the 1970s; this was ultimately changed by the Florida Department of Environmental Protection (FDEP), resulting in the Broward County ocean outfall and the City's construction of the George T. Lohmeyer Wastewater Treatment Plant (GTL). Package plants were phased out over time. Dr. Gassman emphasized the improvement of water quality since treated effluent is no longer discharged into the City's waterways.

Mr. Mitchell stated that there has been no documented improvement of water quality along the North Fork River, and emphasized the importance of paying more attention to that waterway. Dr. Gassman noted that contributing factors to water quality include bacteria as well as pollution from rights-of-way and swales into tidal flows that return to the water.

It was asked if the Miami Waterkeepers test the North Fork River for quality. Dr. Gassman confirmed this, noting that this waterway was one of the original ten sites monitored by the Miami Waterkeepers. Test results are available on that organization's website and social media. Additional links are available on the City's website as well.

Mr. Mitchell pointed out that most water samples from the North Fork River are taken at the Sweeting Estates area, while the main portion of the river begins at Broward Boulevard. Dr. Gassman clarified that Broward County tests water at multiple sites in that area. The original design of the Miami Waterkeepers' sampling program focused on areas where people entered waterways for recreation, as the monitoring is done for health purposes.

Mr. Mitchell reiterated that he had received a report indicating that water quality at Sweeting Estates has never been acceptable for recreational activity. Dr. Gassman confirmed this. Mr. Mitchell asserted that the Board needs to hear what is being done to clean the City's waterways.

Dr. Gassman emphasized that water quality is determined by physical, chemical, biological, and aesthetic components. Today's presentation would focus on water clarity and turbidity, bacteria, and chemical components. She pointed out that the Miami Waterkeepers focus specifically on bacteria.

The City determines what it must do from a regulatory standpoint using the total maximum daily load, or TMDL. Most urban waterways across Broward County have a maximum daily load associated with bacteria. This is one reason for the Miami Waterkeepers' monitoring program, which tests for specific bacteria that are typically associated with gastrointestinal health issues. Information on current waterway quality is provided at the Miami Waterkeepers' test sites.

Through September 2025, water quality data associated with bacteria at a group of Fort Lauderdale sites potentially falls below the 75% compliance standard required by FDEP. Other sites are at or above 75% to 80% compliance and have been designated by the City as water sport activity areas.

All stormwater in Broward County eventually enters the waterways, which means the water comes from roadways, areas with animal waste, and other locations where water quality is not strong. Dr. Gassman emphasized that the City seeks to drive recreational activity to locations where there are higher compliance rates.

Mr. Swindell asked why testing shows significantly better water quality in some areas than others. Dr. Gassman explained that many sites are on the Intracoastal Waterway and have better tidal flow and greater depth. Results can be affected by tidal status at sampling locations, as well as recent rainfall. Samples must be collected in the morning each Tuesday; every site that fails is re-sampled on Thursday.

Dr. Gassman stated again that stormwater also has a significant effect on water quality, as compliance rates are almost always lower following major rain events.

Dr. Ribotsky asked if compliance standards fluctuate from one year to another, particularly with regard to medical waste, as well as whether or not tide status is recorded when samples are taken. Dr. Gassman replied that the general direction of the tides is tracked by the vendor. Compliance standards have not changed since the water monitoring program began: there are FDEP standards as well as beach standards which regulate how much bacteria is allowed in waterways. What has changed are the City's efforts to improve water quality, which occur across different levels.

Dr. Gassman continued that Broward County performs quarterly rather than weekly monitoring of chemical components in the water. Components monitored include nitrogen, oxygen, chlorophyll, turbidity, and phosphorus, nearly all of which have fallen within the acceptable range over a period of 18 years. One area of concern is phosphorus, as there are excursions above the standard in quarterly data, particularly since 2015. These trends differ slightly depending upon location.

Dr. Gassman continued that within the City of Fort Lauderdale, the average of the monitoring sites is 0.8 milligrams per meter. The marine standard is 0.5. All Broward County monitoring sites, including freshwater sites, average 0.6. This shows that all County waterways are challenged to meet these standards. The City's average is slightly higher primarily because its sites are exclusively saltwater sites. Most phosphorus comes from lawn fertilizer, pet waste, yard debris, roadway runoff, general stormwater, airborne particles, and Saharan dust.

To combat phosphorus, the City has provided outreach regarding disposal of pet waste, fertilizer bans during summer months, and diversion of yard waste from storm sewers or waterways. Street sweeping is done at least once a month throughout the City and more commonly in some locations, as this will remove particles from roadways and prevent debris and sediment from getting into the stormwater system.

Mr. Bekoff asked a question regarding land-based pollution sources, such as development and infrastructure failures. Dr. Gassman advised that these are typically fleeting, as they are typically single activities with short-lived impact on average water quality.

Mr. Bekoff also noted that the Miami Waterkeepers have ceased testing the Tarpon River and Himmarshee Canal, both of which he characterized as experiencing constant pollution. Dr. Gassman explained that the City's funding only allows for testing at 10 sites.

Dr. Gassman stated that in 2025, high tides exceeded the City's threshold for flooding several times. Other difficult recent years were 2019, 2022, and 2023. Through October 2025, high tides have exceeded this threshold 109 times, and king tides are currently underway. 41 flooding tides occurred in September 2025; in October 2025, there were 45 flooding tides, 34 of which resulted in moderate flooding and 22 of which exceeded 2 ft. Some City roadways become impassable at certain flooding levels.

Dr. Gassman also addressed dredging, recalling that in 2015, the City conducted a review of the navigable canals under its jurisdiction. A long-term dredging program was proposed to the Commission, which discussed a special assessment of waterway properties, as those were seen to be the primary beneficiaries of dredging. The public did not accept this proposal, and the Commission determined that due to a lack of funding, the City would cease maintenance dredging of its navigable waterways. The only dredging projects put forward by the City since that time have been limited to non-navigable waterways dedicated for stormwater conveyance and minimal dredging in 2019 and 2020.

Chair Witten acknowledged that Mr. Mitchell's district is affected by issues within the North Fork River, and suggested that a discussion of issues associated with the North Fork River be placed on the Board's December meeting Agenda.

Mr. Mitchell advised that the stormwater infrastructure in Fort Lauderdale's Northwest area was rebuilt in the early 1970s to run down SW 12th Avenue to 6th Street, west from 6th Street to 15th Avenue and expel into the North Fork River. He expressed concern that this would not stop until the rainwater collection system is altered.

Dr. Gassman noted that an operational flow study conducted in conjunction with the South Florida Water Management District (SFWMD) looked at the possibility of pushing water from the west down the North Fork River to assist in lowering nutrient levels. This increased flow was determined to lower nitrogen and phosphorus levels. She advised that she would share this document with Mr. Cuba's office so it can be made available to the Board members.

In terms of stormwater, Dr. Gassman continued that the City recently invested in improving the stormwater system in the Dorsey Riverbend and Durrs neighborhoods. This program includes a number of water quality components. She emphasized that there are over 1,000 outfalls in Fort Lauderdale which lessen the likelihood of flooding in the City's neighborhoods.

The following Items were taken out of order on the Agenda.

XI. Dock Waiver – 1409 SW 17th Street / Rhiannon Holcombe & Vincent Congine

Lisa McConnell, representing the Applicants, stated that one year ago, the City's Building Department issued a permit for a project at the subject location, but required a formal waiver before construction could begin. She noted that the Applicants hope to raise their seawall to the new 5.0 seawall standard and replace a marginal dock along 60 ft. of waterfront. Two existing piers of 39.5 ft. and 39.8 ft. extend from the marginal dock; the Applicants propose to replace them with 50 ft. and 30 ft. piers to accommodate personal vessels.

Ms. McConnell continued that the Applicants' property is homesteaded, although the residents spend time in another state. The property is not rented or used as an Airbnb, and there are no live-aboard vessels at the site. She reviewed other parcels located in the subject area, including a parcel consisting exclusively of submerged lands, a private boat slip area, and four additional properties that neighbor the Applicants' property.

Ms. McDonnell showed Google Earth measurements of the canals in the area, noting that they measure an average of 60 ft. in width. On a 60 ft. canal, 25% of the waterway would mean a maximum extension at 15 ft. into the waterway on both sides, leaving a 30 ft.

navigable center channel. At the Applicant's site, City surveyors have confirmed the width of the canal to be between 62 ft. and 67 ft.

Ms. McDonnell explained that the Applicants' parcel is 60 ft. wide and 221 ft. long, including the 71.8 ft. of boat slip basin area. The boat slip has been considered private property and part of the parcel since the 1980s. She stated that extension into the canal from the Applicants' property poses no proposed impacts to any other construction within the canal. The proposed marine structures and vessels will be 15 ft. short of the edge of the extension into the waterway. She asserted that there would be no navigational impacts for barges or other vessels.

The construction plan for the proposed boat slip shows a vessel and finger piers. Structures, boat lifts, and vessels themselves must comply with the City's regulations regarding extension into the navigable waterway. Distances are depicted from the seawall and were a requirement of the waiver request. One proposed finger pier is approximately 13 ft. longer than the current finger piers, while the second proposed finger pier will be approximately 10 ft. shorter than the first.

Extraordinary circumstances related to the site include:

- The proposed docks and piers are necessary for the safe mooring of the property owner's personal vessels, particularly during high wind events or other severe weather
- Neither the proposed structures nor the berthed vessels will encroach into the canal
- The width of the navigable waterway should be measured from the property line despite the interchangeable use of terms such as "water's edge," "wet face," "shoreline," or other terms
- The private boat slip area is intended to be occupied by berthed vessels and would not reduce the average width of the canal
- Approval is required for this waiver by Code Compliance despite the property's use as a privately owned boat slip area and not part of the public waterway

At this time Chair Witten opened the public hearing.

Roy Rodriguez, private citizen, stated that he is a neighbor to the subject property. He advised that the Applicant proposes a 57 ft. dock that would extend significantly into the canal, and expressed concern that a large vessel could be docked at the site, which could extend further. He concluded that the Applicant's presentation does not accurately show the subject area and how the proposed finger pier would affect it.

Chair Witten emphasized the importance of Board members visiting sites that come before them with applications, as it can be difficult to understand renderings or Google Earth depictions otherwise. He pointed out that the subject canal will need to provide access to barges servicing seawalls that need to be raised, and the navigable area is already difficult to access.

Ted Inserra, president of the River Oaks Civic Association, stated that the subject property lies within that neighborhood. He asserted that the Association opposes the Application and does not want it to set a precedent.

Francisco Criado, private citizen, observed that the subject canal is one of the narrowest in the City and it is very difficult to turn, even at its widest point. He did not agree with the special circumstances cited in the presentation.

John Brown, private citizen, stated that he lives east of the subject property. He did not feel he or other neighbors, including some across the canal, had sufficient information about the Application, and suggested that it be tabled for further study. He was not certain that all neighbors within 300 ft. of the subject site were sent notice of tonight's hearing.

Brittany Bontrasin, private citizen, stated that she is a resident of 17th Street. She pointed out that it is not permitted for a property owner to build on 100% of that property, whether on water or on land.

Dr. Ribotsky asked if, should the Application be approved, the property owners could sell the property and make it available for commercial rental, including boat space. Assistant City Attorney Bob Dunckel advised that if the City Commission grants the waiver request and the property is sold, the 56.5 ft. dock could be used by the next owner.

Attorney Dunckel emphasized the importance of a nexus between use of the upland residential structure and use of the waterway: docks and vessels are accessory uses to principal upland uses in the RS-8 zoning district. If there is no such nexus, the use becomes a new principal use rather than an accessory use, which is not permitted in RS-8 zoning.

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. Morley commented that he had visited the site, and suggested that it could be helpful to hear from Attorney Dunckel with respect to the Application and submerged land.

Mr. Bekoff noted that the subject canal is very narrow, and expressed concern that a finger pier of the proposed length indicates the intent of docking a bigger boat there. He pointed out that with a large vessel, it must be pulled out of the dock space further in order to pivot. He felt a finger pier of over 56 ft. could be a safety problem in this canal in relation to other moored vessels.

Mr. Mitchell stated that he had also visited the site and noted the narrowness of the waterway. He felt it would not be possible to build a finger pier to the proposed length at that location.

Chair Witten observed that while most of the canal is narrow, there is a basin in the subject canal which is not visible from the roadway.

Attorney Dunckel advised that the Board is asked to review a waiver of limitations with regard to finger piers, but is not asked to review the length of a vessel or vessels.

Mr. Flanigan noted that the extraordinary circumstances in this case appear to be created by the Applicants.

Mr. Brunelle pointed out that the Applicants' submerged land extends 71.8 ft. into the waterway, and asked if that meant the Applicants could build a dock, or dock a vessel, extending to that distance. Attorney Dunckel replied that the measurement begins at the platted property line.

Mr. Brunelle requested clarification of the extent to which the Applicants can build within their own property, suggesting that it could be helpful in the future to designate this line on future surveys so property owners are aware of these limits when they purchase properties. He also asked for clarification of the limitation to which owners across the canal can build or dock their boats. Attorney Dunckel stated that ownership of submerged lands should not be confused with ownership of the water column above that land.

Attorney Dunckel further explained that Section 47-19.3(c) limits extension to no more than 25 ft. of the waterway as measured from the property line. He strongly emphasized again that measurement is taken from the platted property line, not from the submerged land. It is the City's position that the term "waterway" refers to both the boat slip and the water body to the north.

Attorney Dunckel continued that in cases such as this, the letter of the law must be applied in a manner that does not lead to unreasonable or absurd results. Reading the measurement from the outward boundary back toward the property line would lead to such a conclusion.

Attorney Dunckel continued that the western portion of the boat basin intersects with the new river and the northern portion with the canal. He again reviewed the way in which the navigable waterway is measured, emphasizing that one side of the waterway cannot be separated from the other. He concluded that if the measurement is applied in the way the Applicants' representative has suggested, it would lead to an unreasonable and absurd conclusion.

Ms. McDonnell referred to the earlier presentation once more, reiterating that there is no primary upland structure associated with the basin and pointing out that docks may not be built for the berthing of vessels without that primary upland structure. Attorney Dunckel advised that the issue is not the width of the canal, but the width of the entire waterway, which includes the boat basin. He concluded that this position is backed by the City's Zoning Administrator and Department of Sustainable Development.

Attorney Dunckel also noted that his memoranda to the Applicants' representative had included a mathematical error, clarifying that the waterway is 135.6 ft. in length, of which 30% would be 40.6 ft. Additional clarifications included the identification of the platted property line and the value of submerged lands on which taxes are paid.

Attorney Dunckel concluded that if the Board wished to recommend approval of the waiver request, he would recommend that they propose the City Commission limit the finger pier to an extension of no more than 40 ft. into the waterway, or slightly below the 30% rule, in light of consideration of the entire width of the waterway.

Chair Witten asked if the Board would be permitted to approve a waiver that exceeded the length requested by the Applicant. Attorney Dunckel clarified that the more accurate characterization of this is that the City Commission is prohibited from approving a waiver that would exceed 30% of the width of the waterway as measured from the platted property line, not the submerged lands.

Chair Witten asked if the Applicants' representative would be willing to accept the 40 ft. limitation recommended by Attorney Dunckel. Ms. McDonnell replied that this would not be acceptable to the Applicants.

Motion made by Mr. Morley, seconded by Mr. Lynch, to call a vote. In a voice vote, the **motion** passed unanimously.

Motion made by Mr. Morley, seconded by Mr. Franks, to deny the Application.

Attorney Dunckel clarified that if the **motion** to deny is passed, the Application would advance to the City Commission with the Board's recommendation of denial.

In a roll call vote, the **motion** passed unanimously (15-0).

VIII. Dock Waiver – 100 Hendricks Isle / James G. Mueller

Jena Robbins, representing the Applicant, stated that the request is for a boat lift which has already been installed and for which the owner is seeking after-the-fact approval. The subject property is a single-family townhome connected to another structure, both of which have marginal docks. The marginal dock is approximately 5 ft. wide and an attached finger pier extends another 10 ft. into the waterway. The boat lift is approximately 15 ft. x 13 ft. and is roughly 31 ft. from the property line. It extends 6 ft. past the allowable limit, for which the waiver is requested.

The canal on which the property is located is 170 ft. in width. Ms. Robbins showed an aerial view of the site, including the allowable 30% of the waterway. The Applicant's boat is docked within this limitation.

Extraordinary circumstances related to the request include:

- The distance of the Applicant's portion of the shoreline
- The 10 ft. length of the finger pier
- Other waivers approved in the area, ranging in distance between 8 ft. and 40 ft.

Attorney Dunckel advised that the requested 31 ft. extension into the waterway represents only 18% of the waterway width.

Mr. Morley requested clarification of why the Application was submitted after the fact. Ms. Robbins replied that she was not privy to why this had happened, but noted that there seemed to have been a misunderstanding between the Applicant and their contractor.

Mr. Franks commented that the term "extraordinary circumstances" did not seem to apply to this Application. Chair Witten agreed.

Motion made by Mr. Lynch, seconded by Mr. Bekoff, to approve. In a roll call vote, the **motion** passed 12-3 (Mr. Bekoff, Mr. Mitchell, and Mr. Morley dissenting).

IX. Dock Waiver – 102 Hendricks Isle / Daniel Kraininger

Ms. Robbins, representing the Applicant, stated that this Application also comes from a townhome unit. She showed an aerial view of the property, noting that the boat lift in this case is 31 ft. from the property line. The lift is 14.65 ft. x 15 ft. The Applicant requests a waiver to extend 6 ft. past the 25 ft. limit. When on the lift, the Applicant's boat extends roughly 10 ft. to 15 ft. past the allowable 30% width of the waterway.

Extraordinary circumstances include:

- The device only extends approximately 22 ft. to 23 ft.
- The 10 ft. finger pier is sufficient to safely tie off each vessel
- Other waivers have been granted in the vicinity

The Applicant is obtaining environmental approvals from Broward County.

Chair Witten advised that the Board has received a letter of objection from a member of the homeowners' association in the subject area. The objection expresses concern that the Board would "rubber-stamp" the Application for approval. Chair Witten asserted that some Board members have visited the site and have spent time reviewing the Application.

The Board has also received a letter of support from another neighbor of the property.

Mr. Swindell expressed concern that the contractor responsible for installing the boat lift may not be aware of the process required for installation. Attorney Dunckel stated that Code Compliance does not pursue the contractor in a case of this nature, but focuses on the property owner. The owner is required to secure an after-the-fact permit, which will triple the regular permit fee.

Motion made by Mr. Lynch, seconded by Mr. Morley, to approve. In a roll call vote, the **motion** passed 12-3 (Mr. Bekoff, Mr. Mitchell, and Mr. Morley dissenting).

XII. Dock Waiver – 736 20th Avenue / 1476446 Ontario Limited-Gerhard Sowa Jr.

Alejandra Giraldo, representing the Applicant, showed aerial photographs of the subject property and reviewed its existing configuration. The request is consistent with previously granted waivers in the area. The proposal would place triple pile clusters 120 ft. into the waterway. Ms. Giraldo stated that the Applicant's request is within the 30% limitation, as the width of the waterway from wet face to wet face is approximately 597 ft.

Extraordinary circumstances include:

- The request is within the 30% limitation
- Width of the waterway
- Pilings are necessary for the safe mooring of residents' vessels
- The request is consistent with other waivers issued in the area

Mr. Morley noted that the Applicant's photographs show a construction barge at the site, and requested information about ongoing construction on the property. Ms. Giraldo replied that the barge was present to install pilings. She added that the Applicant has secured a permit for the work on their property.

It was further clarified that the proposed pilings are located within the 25 ft. limitation and do not require a waiver.

Mr. Morley observed that the subject property is located in the RS-8 zoning district, and asked if the property owner rents out his docks. Ms. Giraldo replied that he does not. She added that the property owner currently owns a 98 ft. yacht and has owned multiple boats over the years.

Chair Witten explained that dock space cannot be rented separately from the property in the RS-8 zoning district. He added that Mr. Morley's concern was with the possibility that the property may be rented out separately from rental of the dock space.

Mr. Mitchell asked if the triple pilings being installed will mirror the existing pilings currently on the property. Ms. Giraldo confirmed this. Chair Witten noted that the Application requests placing more pilings farther into the waterway; the current pilings are within Code requirements and are not part of the waiver application.

Mr. Mitchell requested clarification of how far the pilings proposed by the waiver would extend into the waterway. Ms. Giraldo replied that the owner wishes to place the pilings at a distance of 120 ft. into the waterway.

At this time Chair Witten opened the public hearing.

Ross Eckert, private citizen, stated that he was a resident of the subject area. He advised that a portion of the Victoria Park neighborhood is zoned to allow the rental of dock space; however, this zoning does not apply at the subject property, which is within the RS-8 zoning district. He expressed concern that the intent of the property owner was to circumvent zoning regulations, and that granting the waiver would allow commercial docking within the neighborhood.

Mr. Eckert continued that he was concerned the owner had purchased the property in order to rent out its dock space.

Chair Witten noted that while the concern may stem from hearsay, the history of the area indicates the property is being operated as a rental facility. While the Applicant asserts that the property's docks will be limited to personal use, he acknowledged that commercial rental of dock space is a concern for the Board. Ms. Giraldo asserted that while this may have been an issue in the past, it is not the case at present. She reiterated that the owner has recently purchased a 98 ft. yacht and plans to dock it at the property.

Mr. Brunelle recalled that the presentation indicated that the owner planned to rent out the property with a second boat slip in addition to the personal vessel to be docked there.

Chair Witten commented that if residents believe illegal activity is occurring at a property, they are asked to notify Code Compliance. He added that the Board has no reason to believe the Applicant's presentation is inaccurate.

Mr. Cuba further clarified that the waiver request is not retroactive, and there are two triple pile clusters currently installed at a distance of 25 ft. into the waterway.

Mr. Brunelle explained that his concern was that the property owner may have purchased the house and docks his own boat there, but has rented the property to another party which wants to dock a boat there as well. Attorney Dunckel stated that if the owner of the second boat is renting the property, that is permitted.

Mr. Cuba recalled that there was a previous concern in 2019 that chartering was taking place at the subject location. A waiver request had come before the MAB and was recommended to the City Commission for approval, as there were no navigational concerns; however, when the request was advanced to the Commission, a neighbor provided evidence that a vessel at the location had been or was being advertised for chartering. The MAB had not been aware of this circumstance. The City Commission ultimately denied the 2019 request.

It was further clarified that the property has the same owner as in 2019 when the previous case occurred.

Chair Witten asked if there were any letters of objection to the request. Mr. Cuba replied that he had received one such letter, which indicated there was significant commercial activity at the subject property. Chair Witten reviewed the letter, noting that its author reported disorderly conduct at the property by “yacht crews and employees,” which constituted a nuisance. The letter of objection also referred to the previous request for the same property, which was denied, and suggested that the property owner had proceeded with activity which violated the denial.

Chief Waterways Officer Marco Aguilera advised that the boat docked at the subject property is not registered to that property owner; however, this alone did not constitute a violation or evidence of dock rental. What is illegal is the exchange of money for the boat slip. A property owner may allow another individual to dock a boat at their home at no charge.

Mr. Aguilera acknowledged that while it is difficult for the City to enforce its prohibition on dock rental, it does not preclude an owner from allowing another party’s boat to be docked at their property if there is no exchange of money. When the City cites a property for dock rental, it is typically because there is evidence of advertisement.

Attorney Dunckel advised that he did not fully share Mr. Aguilera’s interpretation. He clarified that Mr. Aguilera was referring to the ability of a Special Magistrate to find a property in violation, which is difficult without evidence of exchange of money. He concluded that the issue in the abstract is more complex than this characterization suggests.

Mr. Aguilera stated that his explanation applied to what is or is not enforceable by Code. While he agreed with Attorney Dunckel’s clarification of the abstract issue, no enforcement is possible without proof of exchange of money. Attorney Dunckel did not agree, asserting that the issue must be approached from application of the City’s Unified Land Development Regulations (ULDR), which clarifies principal and accessory uses of property. He concluded that without showing a proper nexus, the use of a dock by another party constitutes a violation with or without exchange of money.

Motion made by Mr. Bekoff, seconded by Mr. Mitchell, to approve. In a roll call vote, the **motion** failed 7-8 (Chair Witten, Vice Chair Washington, Mr. Bekoff, Mr. Brunelle, Mr. Day, Mr. Mitchell, Mr. Morley, and Ms. Ware dissenting).

VII. Discussion – Ordinance C-25-35 / Proposed Amendments FS 370

None.

X. Dock Waiver – 1500 SE 12th Street Unit 2A Slip 19 / Douglas C. Marty

This Item was removed from the Agenda.

XIII. Communication from the Bridge – Marco Aguilera / Chief Waterways Officer

None.

XIV. Old / New Business (*Time Permitting*) Where we are – How we got here

None.

XV. Adjournment

There being no further business to come before the Board at this time, the meeting was adjourned at 9:02 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.]