



CITY OF FORT LAUDERDALE

**DRAFT  
MEETING MINUTES  
CITY OF FORT LAUDERDALE  
MARINE ADVISORY BOARD  
100 NORTH ANDREWS AVENUE  
CITY COMMISSION CHAMBERS  
8<sup>TH</sup> FLOOR CONFERENCE ROOM  
THURSDAY, NOVEMBER 3, 2022 – 6:00 P.M.**

**Cumulative Attendance  
January-December 2022**

|                          |   |   |   |
|--------------------------|---|---|---|
| Ted Morley, Chair        | P | 7 | 2 |
| Steve Witten, Vice Chair | P | 7 | 2 |
| Michael Boyer            | A | 2 | 1 |
| Robyn Chiarelli          | A | 5 | 4 |
| Bob Denison              | A | 5 | 4 |
| Barry Flanigan           | A | 8 | 1 |
| Robert Franks            | P | 6 | 0 |
| Elisabeth George         | P | 2 | 0 |
| James Harrison           | A | 8 | 1 |
| Brewster Knott           | P | 2 | 1 |
| Norbert McLaughlin       | P | 8 | 1 |
| Noelle Norvell           | P | 7 | 2 |

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  
Carla Blair, Recording Secretary, Prototype, Inc.

**Communications to City Commission**

None.

**I. Call to Order / Roll Call**

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

**II. Approval of Minutes – October 6, 2022**

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

Mr. McLaughlin requested clarification of the distance between the property line and the angle at the end of the proposed dock. Mr. Mamando clarified that this would be 10 ft. No mooring pile would be added beyond this dock so it would remain within the setback requirement.

Mr. McLaughlin also asked what size boat the Applicant plans to dock at the location. Mr. Mamando estimated that this would be a roughly 40 ft boat.

Mr. McLaughlin asked if any objections have been raised by the property's neighbor(s). Mr. Cuba advised that notice of tonight's meeting was provided to both adjacent neighbors and any other residents within 300 ft. of the subject property. He had not received any letters of opposition to the project.

Chair Morley asked if the Applicant plans to dock small vessels at the two finger piers. Mr. Mamando replied there are no such plans at this time.

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

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

~~VI. Dock Waiver - 601 SW 3rd Street / Ed Kirwin~~

**VII. Dock Waiver – 777 SW 6<sup>th</sup> Street / Ed Kirwin**

Andrew Schein, representing the Applicants in Items VI and VII, requested that he be allowed to present both Applications at the same time. The Board did not object to this presentation.

Mr. Schein explained that an application to place mooring piles 65 ft. from the property line was approved by the Board in 2018. When that application went before the City Commission, however, it failed by a 2-2 vote. In July 2022, the owner submitted an application to place mooring piles 62 ft. from the property line. The Board did not recommend the new application for approval by the Commission.

Mr. Schein advised that his understanding of the previously submitted application was that more information was needed. The Applicant is now submitting an Application to place mooring piles 60 ft. from the property line, which is a 5 ft. reduction from the original 2018 application and 2 ft. less than the July 2022 application.

Mr. Schein noted that a "point lot" located west of the subject site juts out approximately 55 to 60 ft. into the waterway, which affects how boats move through the area leading

up to a bridge. He showed a distance separation map from another individual's dock waiver application across the waterway, which showed a navigable waterway width of 180 ft. He pointed out that the Applicant's request is to extend the mooring piles 25 ft. farther into the waterway than the existing pilings at 35 ft. Even after these pilings at 60 ft. are added, the widest part of the waterway would be 155 ft.

Mr. Schein added that he had seen an email from a business located on this portion of the waterway which objected to the Application. The basis of the objection was that the pilings would constitute an obstruction. Mr. Schein showed a graphic of the type of towing maneuver that would need to occur in order for the piles to act as an obstruction, pointing out that the cited maneuver is not typical of most boats being towed down the river in the subject area. He felt the concern would be located "significantly further north" than the subject property, and pointed out that the Applicant has a 55 ft. boat legally docked at the subject site.

Mr. Schein also noted that the letter of objection suggested that the Applicant planned to dock a 120 ft. boat at the subject site. He observed that a boat extending that length into the waterway would be "blatantly illegal" under Code, and noted that the letter's assertion was speculative only. He concluded that the Applicant's only request is for mooring piles at 60 ft.

Mr. Schein continued that he has reached out to some of the commercial operators located on the river with respect to the Application. These included the operator of the *Jungle Queen*, which did not object to the pilings. While the operator of the *Jungle Queen* acknowledged that a boat extending further into the waterway could affect navigability, Mr. Schein reiterated that the Applicant did not plan to moor a vessel that would extend further than the proposed mooring piles and would be willing to stipulate that they would not place a vessel that would exceed this length at the location.

Mr. Schein showed videos of towing vessels on the waterway near the subject property, noting that the nearby point lot creates a natural alcove in which boats can be stored without interfering with navigability. He also pointed out that because the location is on the widest part of the river, boats come into the area quickly and slow down as the river narrows approaching the bridge. This can result in significant wake damage. He asserted that the Applicants have spent thousands of dollars over the last 10 years repairing this damage. Mr. Schein also showed a video of the effect of wakes on boats docked at the subject property.

Mr. Schein recalled that when the 2018 application was brought before the Board to request 65 ft. mooring piles, the Board found there were extraordinary circumstances on the subject property at that time. He advised that there have been no substantive changes on this portion of the New River since that time.

Mr. McLaughlin commented that he had visited the subject area and found vessels docked at other locations which were larger than what was approved there. He added

that once a variance has been secured, a boat may extend farther into the waterway than a structure. He pointed out that barges have to use the wide area of the waterway, with nowhere they can lay over.

Mr. McLaughlin continued that it has been stated that the marine industry takes precedence over private boat traffic on the New River, and that commercial operators have indicated they do not want to see additional variances in the subject area. He concluded that this was the basis for his objection to the Applications.

Mr. Schein advised that the request before the Board was not a variance regarding how far a boat may extend into the waterway, but only for the mooring piles. He characterized this objection as penalizing homeowners for what should be changes to the City's Code.

Mr. McLaughlin stated that his view on the issue was not that homeowners are being penalized, but that homeowners want variances to change depending upon the size of the boats they plan to dock on their properties. Mr. Schein stated once more that the Applicant does not plan to dock a boat on their property that would extend past the proposed mooring piles. He added that the Applicant would be willing to accept any conditions of approval the Board might wish to attach to the Application, including a boat size restriction.

Chair Morley asked why the Applicant would moor a boat parallel to the seawall with outboard piles instead of breasting it off the dock to minimize wake damage. Mr. Schein responded that the owner has a lot of boats docked at the property, some of which belong to visiting relatives.

Chair Morley continued that it appeared the property owner purchased the property with the knowledge that he could not fit all of his boats there without requesting a waiver. Mr. Schein stated that the Applicant can fit his 55 ft. vessel on the property, but characterized the issue as one of safety.

Mr. McLaughlin stated again that once an owner has put mooring piles 60 ft. into the waterway, there would be nothing to stop them from docking a significantly larger boat on the property. He added that boats within the 30% restriction are still very close to encroaching upon the navigable waterway, and reiterated that there is no guarantee the Applicant would not attempt to dock a boat larger than 55 ft. on the property.

Mr. Schein advised that the issue described by the Board members is larger than the Applicant's waiver request, and that he would support a change to Code which used location-based waiver criteria specific to the area; however, he stated again that the Applicant would take any necessary action, such as entering into a restrictive covenant, to ensure the Board that their intent was not to dock a larger vessel on the property.

Mr. Franks commented that with boats of significant size, such as the *Jungle Queen*, using the river, it can be difficult for vessels to pass one another on the waterway, which necessitates the use of large open areas for this purpose. Mr. Schein pointed out that whether the Applicant is granted mooring piles or not, there will continue to be boats docked at the property.

Mr. McLaughlin stated that the only restriction that can be placed on the size of a boat docked on the subject property is to "keep the structures in close" so it is clear that a vessel 100 ft. or larger cannot safely be docked there. He objected to the proposed pilings because they would not restrict the owner from docking a larger vessel on the property. Mr. Schein reiterated that the Applicant is willing to accept a condition of approval which would restrict the size of the boat docked on the site to 55 ft. Mr. McLaughlin pointed out that previous applicants have agreed to similar conditions, but these conditions are not enforced, particularly if the property is sold to a new owner.

Mr. Schein advised that if the Board recommends denial of the Applications, he hoped they would be based upon the merits of the Applications themselves and not speculation on what could possibly be done at the site.

Ms. Norvell suggested that if the Applicant did not plan to dock a larger vessel than 60 ft. on the subject property, they could request that the mooring piles be extended at a lesser distance, such as 15 ft., rather than 35 ft. She asked if the Applicant had considered a different configuration of structures on the property rather than adding pilings. Mr. Schein explained that the subject properties are separate rather than combined, although they are owned by family members.

Ms. George requested further clarification of why a restriction entered into by the Applicant, restricting the size of the boat on his property, could not be enforced. Chair Morley explained that there would be nothing against which Code Enforcement could take action. Mr. Schein stated that the Applicant was willing to enter into a separate legal mechanism with the City which would provide a basis for enforcement.

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

Chair Morley noted that while the two Applications had been presented together, the Board would vote upon each Application separately. He requested a motion on the Application for 801 SW 6<sup>th</sup> Street.

~~Motion made by Vice Chair Witt, seconded by Mr. Frank, subject to a roll call vote, the motion passed unanimously (7-0).~~

Chair Morley requested a motion on the Application for 777 SW 6<sup>th</sup> Street.

**Motion** made by Vice Chair Witten, seconded by Mr. Knott, to reject. In a voice vote, the **motion** passed unanimously (7-0).

### VIII. Old / New Business

Mr. McLaughlin observed that while structures on a property trigger variance requests, he felt the trigger should be the furthest extension of the vessel docked there. He pointed out that if a boat lift, for example, requires a variance of 5 ft., the bow of the boat on that lift may extend beyond the lift itself. He suggested that the Board consider recommending a change in how variances are determined to the City Commission, which would take the length of the boat into consideration.

Chair Morley commented that there is currently no restriction on docked vessels other than falling within the uniform 30% of the width of the waterway. This would mean any recommendation such as the one described by Mr. McLaughlin would require a Code modification.

Mr. Cuba pointed out that the 30% restriction typically works; however, there are some circumstances on the New River which can contribute to concerns. Chair Morley also recalled that the Board has previously discussed the possibility of recommending a moratorium on waivers on the New River, due to the designation of that waterway as a commercial corridor. He pointed out that the New River's navigable waterway is considered to extend from bank to bank rather than identifying a channel.

Chair Morley asked if the Board had interest in sending a communication to the City Commission to recommend a moratorium on waivers on the New River in light of concerns regarding safety and navigation of commercial operators. Mr. Cuba stated that he could place a discussion of these concerns on the Board's December Agenda.

Chair Morley continued that it is important for the Board to consider both sides of this issue, balancing the needs of homeowners against those of commercial operators. He asked the Board members to consider related topics they may wish to discuss at the December meeting.

The Board members further discussed conditions on the New River, with Vice Chair Witten stating that the interests of commercial operators should not be neglected in favor of the interests of residents. He added that some of the waivers granted on this waterway in recent years probably should not have been granted, resulting in a more aggressive stance on these issues by the Board.

Mr. Cuba proposed that after the Board has discussed this topic, they may also wish to invite representatives of the marine industry to provide their perspective at a subsequent meeting as well.

### IX. Adjournment