



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

**FORT LAUDERDALE FIRE RESCUE DEPARTMENT – STATION #2  
CITY OF FORT LAUDERDALE 528 NW 2<sup>ND</sup> STREET, FORT LAUDERDALE, FLORIDA 33311  
3<sup>RD</sup> 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