

**DRAFT**  
**MINUTES OF THE MARINE ADVISORY BOARD**  
**100 NORTH ANDREWS AVENUE**  
**8<sup>TH</sup> FLOOR CONFERENCE ROOM**  
**FORT LAUDERDALE, FLORIDA**  
**THURSDAY, APRIL 4, 2013 – 6:00 P.M.**

<u><b>Board Members</b></u>	Attendance	<b>Cumulative Attendance</b>	
		<u><b>Present</b></u>	<u><b>Absent</b></u>
Barry Flanigan, Chair	P	8	1
James Harrison, Vice Chair (6:15)	P	6	3
F. St. George Guardabassi	P	9	0
Norbert McLaughlin (6:13)	P	9	0
Jim Welch (6:15)	P	9	0
Robert Dean	P	7	2
John Holmes	P	7	2
Bob Ross	P	7	2
Joe Cain	P	6	3
Tom Tapp	P	8	1
Herb Rassing (dep. 7:15)	P	8	1
Frank Herhold	P	7	2
Lisa Scott-Founds	P	5	4
Zane Brisson	P	6	3
Eric Johnson (6:15)	P	2	0

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

It was noted that a quorum was present for the meeting.

**Staff**

Andrew Cuba, Manager of Marine Facilities  
Jonathan Luscomb, Supervisor of Marine Facilities  
Matt Domke, Downtown Facilities Dockmaster  
Levend Ekendiz, Intracoastal Facilities Dockmaster  
Sergeant Todd Mills, Marine Police Staff  
Officer Quinton Waters, Marine Police Staff  
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

**Communication to City Commission**

**Motion** made by Mr. Dean, seconded by Mr. Herhold, that the Marine Advisory Board requests that the City Commission authorize the Sasaki Group to recalculate the Las Olas Marina pro forma based on 6000 lineal ft. of dockage,

as originally proposed by the Board. In a roll call vote, the **motion** passed unanimously.

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

Chair Flanigan called the meeting to order at 6:11 p.m. and roll was called.

**II. Approval of Minutes – March 7, 2013**

**Motion** made by Mr. Tapp, seconded by Mr. Ressing, to approve. In a voice vote, the **motion** passed unanimously.

**III. Statement of Quorum**

It was noted that a quorum was present.

Mr. McLaughlin arrived at 6:13 p.m.

**IV. Waterway Crime & Boating Safety Report**

Chair Flanigan welcomed Sgt. Todd Mills of the Marine Unit. Sgt. Mills has been with the Fort Lauderdale Police Department for over 23 years and has been a Sergeant for more than nine years. He briefly described his background in the Department for the Board.

Vice Chair Harrison, Mr. Johnson, and Mr. Welch arrived at 6:15 p.m.

Sgt. Mills reported that during the month of March, two GPS units were stolen from boats; there has also been a series of gas can thefts. A 30 ft. boat was stolen from the water on March 20. The Marine Unit issued 18 citations and 112 warnings throughout the month.

Mr. Ressing asked if a team from the city of Clearwater had contacted the Police Department regarding a technique for tracking stolen items. Sgt. Mills explained that the technique, Smartwater, is a fluid containing microscopic minerals and identification numbers, which can be dabbed onto equipment to act in a similar manner to DNA. The fluid can be seen with infrared light. The intent of the project is for pawnshops to use this light to read these markings. Sgt. Mills stated he felt this program could act as a deterrent to thefts.

Robert Brinkman, private citizen, asked how many citations the Marine Unit has written for excessive wakes. Officer Quinton Waters replied that while he did not have this figure on hand, most citations are related to vessels operated at a high speed in a slow speed zone or at a slow speed in an idle zone.

Chair Flanigan requested that the following statement be included in the record:

“Recently, on a request for a variance, information submitted to Staff and to [the Board] turned out to be less than accurate. Initially, our investigation concerns were not impacted by this misinformation in regards to navigational safety, but decisions cannot and should not be made on misinformation. The Mayor and the Commissioners have publicly stated many times, when they speak, of their high respect for this Board, and to provide them with less than what they expect is not acceptable. I offer an apology on behalf of the Board for this.

“As a result, in going forward, all applications submitted to Staff will now be required to have a marine survey as part of their application. Any waiver to this will be decided by Staff. This, of course, places an additional burden on many innocent homeowners who come before us to correct situations that previous owners or contractors have done to their property.”

Chair Flanigan apologized for any inconvenience the new policy may cause in the future.

**V. Waiver of Limitations – ULDR Sec. 47-19.3 C, D, & E – Andreas Grossauer / 816 Building LLC / 816 NE 20<sup>th</sup> Avenue**

Tyler Chappell, representing the Applicant, showed a PowerPoint presentation to the Board. He explained that the current owner has recently purchased the property and would like to renovate the docks. The existing dock consists of one finger pier and one marginal dock with two slips. Installing a longer dock and mooring piles will allow the Applicant to safely moor his boat and will allow for an additional vessel as well.

He showed multiple views of the property and the dock, as well as the segment of the Middle River on which the property is located. Mr. Chappell noted that other properties in the area have triple piles and slips similar to what the Applicant is requesting. The proposed dock has two 31 ft. wide slips and triple pile clusters along the north and south riparian lines. The seawall and marginal dock will remain intact.

Mr. Chappell noted that numerous waivers have been allowed near the Applicant’s portion of the waterway. The extraordinary circumstances related to the Application include the need for additional structures to safely moor vessels in the event of a storm or high wind. The waterway is also very wide in this area, at 376 ft. on the south side and 363 on the north side. The Applicant is requesting between 4.9 ft. to 87.4 ft. for both the triple pile clusters and the finger pier.

He concluded that letters of support were provided from two residential neighbors as well as Lovell Marine. There were no letters of objection to the request.

Mr. Guardabassi expressed concern that the proliferation of boats in the area would discourage waterskiing. Mr. Cuba advised that a Water Sports Activity Zone is adjacent to the area; skiers are intended to remain farther south than they were shown in the Applicant's photographs. Mr. Chappell stated that the property lies to the north of the No Wake sign, and is outside the activity area.

Mr. Herhold commented that the property lies on the widest part of the river. He pointed out that the request extends to the maximum distance allowed according to the 30% rule. He concluded that the northernmost dolphin pile appeared to be set slightly within the Applicant's property line. He did not have any objections to the Application.

Mr. Brisson asked if the Applicant owned a yacht that required the proposed dockage. Andreas Grossauer, Applicant, replied that he personally does not need the particular style of dockage; however, he planned to rent the two slips.

Chair Flanigan asked if the Application reflected a permitted use in the ROA zoning district. Mr. Cuba confirmed this.

Mr. Dean asked what the water depths were in the area. Mr. Chappell said the area was previously dredged and large vessels are docked within the neighborhood. He estimated the depth at between 8 and 10 ft.

As there were no further questions from the Board at this time, Chair Flanigan opened the public hearing.

Harold Lovell, representing the Lovell Company and his family, stated that he was in favor of the Application.

There being no other members of the public wishing to speak on this Item, Chair Flanigan closed the public hearing and returned the discussion to the Board.

**Motion** made by Mr. Rassing, seconded by Mr. Tapp, to approve as submitted.

Mr. Rassing **amended** his **motion** as follows: **motion** to approve as submitted, subject to the northernmost dolphin [clusters] to be set inside the Applicant's riparian line. In a voice vote, the **amended motion** passed unanimously.

**VI. Waiver of Limitations – ULDR Sec. 47-19.3 C, D, & E – Irene P. Pawuk Trust, Emil Pawuk New Family Trust, Emil Pawuk Disclaimer Trust, E. Mark Pawuk Trustee, Emil Pawuk Irrevocable Trust For Grandchildren / 435 Seabreeze Blvd.**

Mr. Chappell, representing the Applicant, advised that the slips are located directly to the west of the subject parcel, within the riparian line, and to the north of the Swimming Hall of Fame. He showed aerial views of the north docks and the nearby properties for orientation.

He explained that the existing docks were turned from a north/south to an east/west alignment in order to allow boats, particularly larger vessels, to access these slips more easily from the Intracoastal Waterway. The existing lease is approximately 135 ft. from the right-of-way of the Waterway and 248 ft. from the edge of the channel. The proposed lease would be 21 ft. from the right-of-way and 134 ft. from the edge of the channel. None of the proposed docks or slips would intrude into the right-of-way of the Intracoastal Waterway, but lie within the river sound.

Mr. Chappell continued that the proposed docks will stand roughly 113 ft. from the existing dock; the existing structures are approximately 189 ft. from the Venetian condominium docks. This distance will not change. He noted that the Applicant has met with a committee from the Venetian, which at first had not wished to see any expansion or renovation of the marina directly south of their property, as they felt it could hinder residents' ability to enter and exit their slips. In response, the proposal is to place larger vessels on the entrance to the Intracoastal so they will have better access to the marina without turning.

He showed drawings of the proposed docks, pointing out that distances listed on the diagram were taken from the actual property within the riparian lines. Docks constructed in the 1980s have been grandfathered in. When the Applicant approached the City regarding the proposed plans, they were informed that any structural renovation would require a waiver of limitations; however, the existing structures that would not be renovated would have no such requirement. Mr. Chappell concluded that the request is for docks and mooring piles that are being completely renovated. This will include floating docks, which have greater longevity.

He stated that the Application's extraordinary circumstances are related to navigation within the New River sound, including the turning radius necessary to move boats in and out of the marina. The proposed plan will accommodate larger vessels and allow for improved navigation and safety on the river. The vessels expected to use the docks are approximately 130-140 ft., which are consistent with the existing marina and compatible with the surrounding area.

The proposed plans will require revision of the current submerged land lease, including an extension to the west. All new structures will be within the existing Boat Show lease. Both the Boat Show and the Marine Industries Association of South Florida (MIASF) have provided letters of approval stating that the

renovation will be compatible. The Venetian has provided a letter of support as well.

The waterway from the property to Idlewyld is over 1000 ft. in distance. Mr. Chappell said the request is for roughly 130 ft. in increase from the existing structures to the new.

Chair Flanigan asked what size vessels would be expected to use the floating docks. Mr. Chappell reiterated that these would be from 130-140 ft., although he added that the length could be greater than 150 ft. with the proposed dredging.

Mr. Guardabassi asked why the size is currently restricted to 120 ft. Mr. Chappell replied that this restriction is due to the ability to navigate from the existing slips.

Mr. Rassing asked if seagrass is expected to be an issue. Mr. Chappell said the Applicant would conduct a seagrass survey later this month, and would use seagrass surveys recently performed by the City's consultant. He observed that no seagrass has been found in the proposed location.

Mr. Welch commented that the site appears to protrude a great deal into the waterway, where there are very few wide areas. He pointed out that the existing waterway space in this area is one of the more beautiful elements of the location, and added that on a busy weekend, boat traffic can be very heavy. Mr. Chappell said the channel marker lies to the west of the proposed slips. Mr. Welch noted that many smaller boats do not remain within the channel.

Mr. Welch asked which entity oversaw the submerged land lease that the Applicant wishes to revise. Mr. Chappell said this was the Florida Department of Environmental Protection (FDEP); the submerged land lease would lie 114 ft. to the west of the existing lease. He felt this would allow adequate room for navigation within the channel marker, as this area was one of the widest spaces on the Intracoastal Waterway.

Mr. Welch stated that this space would be diminished if the docks were built as proposed. He advised that this would constrict an open bay to the average boater using the waterway, and tightening the channel could contribute to an accident. Mr. Chappell said the waterway opens to the north of the proposed area.

Mr. Herhold remarked that the figures included on the visuals appeared to be very large. He added that the dockage configuration was "ingenious," particularly with regard to encouraging bigger boats to come to the City's waterways. He also felt the current slips were not sufficiently wide to accommodate vessels with 30 ft. beams, and concluded that he was impressed with the letters of support, particularly from the Venetian.

Mr. Herhold requested an estimate of the westward increase in distance. Mr. Chappell said this was roughly 100 ft. from the outside slip of the existing lease to the new slips of the proposed lease.

Mr. Johnson asked to know the depths in the area near the channel marker. Mr. Chappell replied that while there are some shallow areas nearby, the depths near the marker are in the 10-15 ft. range.

Mr. McLaughlin asserted that he had run barges greater than 160 ft. in length and 40 ft. in width through the area and had not encountered a problem, even when two barges passed one another. He did not feel navigation would be negatively affected.

Vice Chair Harrison asked to know the status of the proposed submerged land lease. Mr. Chappell said the application for this increase would be submitted soon, and he did not anticipate an issue with the requested extension. He recalled that the lease had previously been extended to the north, and reiterated that the Venetian had requested no further expansion in this direction.

Vice Chair Harrison asked if the submerged land lease could be extended further to the west in the future. Mr. Chappell stated he did not anticipate this, as it would require the approval of the Army Corps of Engineers, which typically does not allow expansion into the right-of-way of the Intracoastal Waterway without good reason.

Vice Chair Harrison asked if the tidal current in the area posed a problem. Mr. Chappell said it did not, due to the width of the river in the area.

Mr. Ross said he appreciated the Applicant's foresight in seeking to accommodate larger vessels, as well as the accommodation of the Venetian.

Mr. Dean asked if consideration was given to angling boats into the slips rather than placing them in a perpendicular alignment. He suggested that this could make it easier to accommodate both ingress/egress and larger boats. Mr. Chappell said the plan was designed by the marina operator in what he felt was the best way to move boats in and out. The design has been very successful on the south side.

Mr. Dean also expressed concern with the current in the area. Mr. Chappell said this would be taken into consideration by the Applicant; however, the difficulty of ingress/egress had been seen as a greater issue than the tidal current.

Chair Flanigan stated he was happy to see floating docks were being used.

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

**Motion** made by Mr. Ross, seconded by Mr. Herhold, to approve as submitted. In a voice vote, the **motion** passed unanimously.

Chair Flanigan advised that Mr. Chappell had recently been reappointed as the District Governor for the Florida Inland Navigational District (FIND).

Vice Chair Harrison asked if the City had given any consideration to a similar plan for its own docks near the Swimming Hall of Fame. Mr. Cuba said this had been considered over the years, and it was hoped that Marine Facilities would one day have a dockage facility at the end of the peninsula.

**VII. Waiver of Limitations – ULDR Sec. 47-19.3 C & E – Hank Hury and Dr. James Cross – 209 North Birch Road**

Don Hall, representing the Applicants, provided information packets on this Item to the Board members. He reported that the Applicants have received letters of support from the Central Beach Alliance and the Versailles condominium; they have also received a letter from the Springbrook Condominium, which appeared to be in opposition to the Application.

Mr. Hall explained that two docks have been constructed at the Alhambra Place condominium, and slips extend 30 ft. into the Intracoastal Waterway. These docks were permitted by the Army Corps of Engineers, FDEP, and the City. The Applicants request a waiver to install a 16x16 ft. boat lift at their slip. This waiver would address the distance by which a mooring structure, such as a boat lift, may extend into the Intracoastal Waterway. The hoist would extend 39.3 ft. into the Waterway from the property line, and the slip would extend 14.3 ft. beyond the 25 ft. limit permitted by Code. Mr. Hall observed that the extension would be 407.8 ft. from the eastern edge of the navigable channel of the waterway; the width of the waterway is 725 ft. at this point.

He continued that in 2009, the City had approved a boat lift for slip #4 at Alhambra Place, which accommodates a larger boat than the Applicants' vessel. This lift extends 48.1 ft. into the waterway.

Mr. Hall concluded that the waiver, if granted, would not pose any adverse effects to navigation or safety, would not obstruct any views not already affected by other boat lifts, and would not conflict with neighboring property owners' usage of the Intracoastal Waterway. The boat lift is necessary because the property lies in an area through which other vessels travel very swiftly, creating



wakes that could be damaging. Placing the boat on a lift would also keep it safe from storms and other natural events, and would alleviate the trash accumulation to which the property is subject due to a nearby sandbar.

Mr. Rassing left the meeting at 7:15 p.m.

Mr. Herhold observed that the Applicant's schematics showed an existing boat lift 25 ft. from the bulkhead, which is farther from the wet surface of the bulkhead than the Applicants' proposed boat lift. He felt this was an asset to the Application.

Mr. Ross asked if the amount of trash buildup shown in the Applicants' materials meant the City should send trash collection services into the area on a regular basis. Mr. Cuba said residents with these concerns could call the Sanitation Department or his office, so he could guide them in the right direction to address this problem. Mr. Dean agreed there is a need for the lift due to the wake and the trash buildup in the area.

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

**Motion** made by Mr. Ross, seconded by Ms. Scott-Founds, to approve as stated. In a voice vote, the **motion** passed unanimously.

**VIII. Waiver of Limitations – ULDR Sec. 47-19.3 C, D, & E – John C. Jr. and Cheryl J. Gorman – 720 NE 20<sup>th</sup> Avenue**

David Nutter, representing the Applicants, stated that the request would reconstruct an existing marginal dock and finger pier by relocating the finger pier 5 ft. to the south and extended 1 ft. farther, which would result in a total of 41.9 ft. from the property line. A single piling will be centered on the pier at 50 ft. out, with three piling clusters at 80 ft. into the waterway. He noted that the waterway is 800 ft. wide at the north end of the property and 990 ft. wide at the south. Depths are more than sufficient for the Applicant's vessel.

Vice Chair Harrison asked if the Applicant would like to extend the pier and pilings further into the waterway. Mr. Nutter replied that the request is sufficient for the Applicant's existing vessel, as well as another vessel that would be moored on the opposite side of the pier.

Mr. Herhold noted that the Application is within the waterskiing area discussed during consideration of Item V, but was sufficiently set back that it should not create any difficulty for skiers.

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

**Motion** made by Mr. Ross, seconded by Mr. Tapp, to approve as stated. In a voice vote, the **motion** passed unanimously.

### **IX. Discussion – FWC Speed Zones**

Mr. Cuba advised that the members' information packets include a memo from June 2012, which states that sign changes have been made from Idle Speed No Wake to Slow Speed No Wake at different points along the New River. Staff contacted the Florida Fish and Wildlife Conservation Commission (FWC) when they became aware of these changes, and seem to be making some headway in getting these signs changed from approximately Marker 5 to the west. There is a possibility that the signs to the west of Marker 11 will be returned to Idle Speed No Wake if City Staff successfully establishes the criteria set forth by FWC.

Chair Flanigan requested that the Board hear some of the concerns expressed by members of the public before voting on this issue.

Robert Brinkman, private citizen, stated that he represented 33 property owners who live on a wide portion of the New River from Marker 5 to Marker 11. He read a letter that he had written to FWC, which said the wakes generated by vessels exceeding the slow speed minimum wake zone are damaging to the boats, docks, and seawalls of residents in this area, and create a danger to manatees as well. He asserted that this is particularly true of Water Taxis and other commercial vessels that regularly travel the river throughout the day. He has requested that the City apply to change this half-mile stretch of the river to Idle Speed No Wake, as repeated complaints regarding speeds have not resulted in action being taken.

Mr. Brinkman said the definition of "slow speed" includes a vessel proceeding in a manner that does not create an excessive wake or other hazardous conditions that could endanger other vessels or persons on the waterway. He advised that idle speed would not significantly alter the schedules of Water Taxis, tour boats, or other commercial vessels, and would satisfy the residents on this portion of the New River.

He concluded that he has been in touch with City Commissioner Romney Rogers to request that the City apply to FWC for permits to change signs to Idle Speed No Wake. Many wider areas of the river require idle speed, despite their greater width than his section of the New River. Both he and other residents in the area

have sustained wake damage to their vessels and docks. Mr. Brinkman requested that the Board recommend to the City Commission that the City apply for permits to change signs from Slow Speed Minimum Wake to Idle Speed No Wake.

Edd Helms, private citizen, stated that over the past 10 years, he has experienced significant damage to his seawall and boat. He advised that the commercial traffic on this part of the river has increased in recent years, creating turbulent waters when boats pass by without regard for the speed limit. He pointed out that "minimum wake" is a discretionary term; in addition, Water Taxis carry greater loads, which result in higher wakes. Mr. Helms concluded that the Fort Lauderdale Police Department is not able to control the commercial vessels that contribute to the issue, and requested that the Board recommend that signs be changed to Idle Speed No Wake.

Mr. Ross asked what the Police Department's response had been when contacted. Mr. Helms said he has made complaints regarding the speed of Water Taxis, but had seen no improvement.

Chair Flanigan said he was aware that members of the Marine Unit had had discussions with the Water Taxis regarding wakes, and he found it difficult to believe this could not be addressed by the Police Department. Mr. Helms said the residents were not requesting additional patrols, but the posting of Idle Speed No Wake signs. He added that he had reached out continually to both Water Taxi and at least one tour vessel to correct the activity.

Mr. Ross asked if Mr. Helms felt changing the speed to Idle Speed No Wake would affect the behavior of the Water Taxi and other commercial vessels. Mr. Helms said commercial vessels should be more obligated than residential vessels to comply by these laws, as they make their living on the waterway. He felt the company should ask its captains to respect the property of residents who live on the water.

Alan Dahms, private citizen, agreed that the wake issue has become worse in the past three years. He noted that the catamaran-sized Water Taxis do not cause the same wake as the larger vessels. He concluded that a change to Idle Speed No Wake signs, as well as greater enforcement, would help address the problem. He advised that even increased warnings would help spread the word that the zones are being patrolled, although this would not entirely solve the problem.

Mr. Cuba stated that Staff would make the Marine Unit aware of these concerns, and would speak with Water Taxi as well. He added that he would continue to pursue the cooperation of FWC regarding the requested change in signs.

Mr. Brinkman said it was his understanding that the change is often a matter of a city applying for permits to change to Idle Speed No Wake. Mr. Cuba explained that there are specific criteria associated with speed zones: because the locations in which most of the individuals lived are residential areas, there is some concern that the other activities that typically require Idle Speed zones, such as boat launches and marinas, may not meet these criteria. Mr. Brinkman asserted that according to Code, congestion and intersections are included in these criteria as well, and both of these conditions affected the locations. Mr. Cuba agreed that Staff would seek to establish these criteria.

Mr. Holmes agreed that wakes not only damage private property in residential areas, they can damage commercial vessels being towed. He thanked the members of the public for their attendance.

There being no other members of the public wishing to speak on this Item, Chair Flanigan closed the public hearing and brought the discussion back to the Board.

Mr. McLaughlin remarked that the Marine Unit typically reports many more warnings than citations each month, and suggested that the Board might make a recommendation to give more citations for wakes. He asked if the Marine Unit kept records of how many times a citation has been issued to the same individual or business.

Chair Flanigan stated that the Board could consider making a recommendation to the City Commission to begin the process of changing the signs to Idle Speed No Wake. He cautioned that this could be a lengthy process, but if the City Commission agreed, the next step could be to reach out to Tallahassee to encourage this change. He noted that he has often seen transient marine life in these areas, including manatees.

Mr. McLaughlin commented that a disregard for causing wakes can result in serious injury, particularly to individuals in the marine industry.

Mr. Guardabassi said while he was sympathetic to the residents whose property had been damaged, he could not support a recommendation of this nature, as he felt it would diminish the fun of boating. He stated that the problem is with a small percentage of boaters, and with commercial vessels. He concluded that wake regulations are subjective, and the problem is one of enforcement. He felt idle speed was too low.

Mr. Welch said he agreed with Mr. Guardabassi, as he felt lowering the speed would be an impediment to the average recreational boater. He asked if there might be another solution to the problem, such as placing rocks within the wider waterways to break the wakes. Chair Flanigan said he did not feel an additional

burden should be placed on residents to deal with wakes, and reiterated that either changing the speed or greater enforcement would be a better solution.

Mr. Herhold requested clarification of where Staff had asked to reduce the speed to idle speed. Mr. Cuba confirmed that this was "from the triangle west to Tarpon Bend." Mr. Herhold said he agreed that the emphasis should be on enforcement, and suggested that the Marine Unit could focus on this target area in order to send a message. Mr. Holmes also felt the issue should be targeted enforcement, particularly with the commercial vessels that regularly create wakes. While they did not want to impede business, he felt the Board also has a responsibility to the public.

Vice Chair Harrison observed that there have been greater restrictions on speed over the year. He felt slowing the speed of regular boaters could adversely affect boating in general, and agreed that while wakes can be excessive, the focus should be on enforcement rather than regulation.

Mr. Ross suggested that the topic be an Agenda Item for the next month so the members could discuss it further with representatives of the Marine Unit. Chair Flanigan said he would continue the conversation with Sgt. Mills, and it may not be necessary for this to be an Agenda Item again.

Mr. Dean commented that in the past, members of the Marine Unit had advised that the majority of their tickets were issued for wake violations. He stated that he was concerned about "heavy-handed enforcement," as this could be a deterrent to boaters. He also felt there were times when it was not possible to avoid creating a wake, as it is not possible for a boat traveling upriver against an outgoing tide to do so at idle speed. He agreed, however, that vessels creating a damaging wake should be held responsible for the damage.

Mr. Tapp pointed out that in order to enforce a speed, the Marine Unit must have the appropriate tools, such as signage advising the public on how fast they can travel. He felt a wake/no wake determination was too subjective a criterion. If Staff reached out to FWC to determine why signs were changed in a particular area, he suggested that changing to Idle Speed No Wake would provide the Police Department with an additional enforcement tool.

Chair Flanigan said he had indicated to Commissioner Rogers that the Board might consider taking action on this topic, and he felt the Commissioner would appreciate any input they could give. Mr. Dean observed that Staff's memo to FWC may have already begun the process of changing signage. Mr. Cuba said while Staff has provided initial input on a speed change, FWC is resistant to a speed change past Marker 11.

It was determined that the Board did not wish to make a formal recommendation on this topic until they have heard more input from the Marine Unit. Chair Flanigan noted that in the meantime, he hoped to invite a representative of FWC to attend a meeting and discuss the criteria for a speed change. Mr. Cuba added that he and Chair Flanigan would meet with Sgt. Mills to express the concerns stated on both sides of the issue.

Mr. Cuba reported that at the last City Commission meeting, he was directed to look into what is done by other municipalities regarding the waiver process. He was also asked to find out what the Board felt regarding the concept of a "hold harmless arrangement" in conjunction with the waivers endorsed by the Board. He concluded that the Board may wish to consider whether or not requiring a hold harmless form as part of the waiver process is a good idea. It was clarified that the entity to be held harmless would be the City.

Mr. Dean said he had attended a meeting held by City Commissioner Dean Trantalis, who had raised the issue of the waiver process and the guidelines used as part of that process. Mr. Dean said he had advised that safety was a primary concern. He felt this discussion and the Commission's request to Staff were related, and noted that the concern seemed to be with the possibility that a waiver is granted and then results in an accident. At this point there could be a question of the City's responsibility in granting the waiver.

Mr. Dean concluded that the rule of allowing extensions of 25% or 30 ft. into a waterway may need to be addressed and/or changed. He pointed out that if the Board is asked to grant a great many waivers, perhaps Code restrictions should be changed.

Chair Flanigan stated that the City's Legal Department should be the entity to weigh in on the language of a hold harmless clause. He observed that the Board often sees individuals who want to make changes to their property "the right way," or to address issues they have inherited from previous owners; however, there are also after-the-fact requests for waivers. He noted that applicants are now required to provide a marine survey of their properties.

Mr. Dean recalled that one aspect of discussion had been the fine levied against some owners, which consisted of doubling the permit fee. This was not believed to be a deterrent to some owners, but could be considered part of the cost of doing business. Chair Flanigan recalled that in the past, some well-known contractors had confirmed this attitude, as they felt the fine was preferable to going through the permitting process.

Mr. Dean said he felt the Board was attempting to use a common-sense rule when determining the appropriateness of waivers; he commented that it may not be possible to quantify this in the Code.

Mr. Guardabassi asked if the City was protected by sovereign immunity. He noted that it may be difficult to determine the potential maximum size of a boat that may dock at a given site, as a very large vessel may extend further into the channel. It was noted that this is a different dockage issue than mooring a boat behind an individual home, where the width of the property itself will limit the size of the boats that may be moored there.

Mr. Cuba pointed out that there are different restrictions on mooring boats within the City's waterways and on the Intracoastal Waterway; the maximum intrusion on the Intracoastal was 25% into the total width of the waterway. He added that this rule has proved to be helpful over the years.

Mr. Herhold suggested that applications for waivers could include a requirement for the maximum boat size to be sketched in, as this would show how much of the view corridor might be interrupted. He recalled that at the recent meeting with Commissioner Trantalis, he and Mr. Dean had pointed out that owners should be encouraged to come forward and correct errors made by previous owners of their properties. He pointed out that adding hold harmless language to the waiver process could reduce the number of variances.

Mr. Cuba stated that he would suggest the Legal Department review the hold harmless concept. He expressed concern, however, with the idea of indicating the maximum vessel size that could be accommodated by a dock, as the property may change hands and the new owner may have a larger boat. Mr. Guardabassi clarified that his suggestion was not to restrict the size to a current owner's vessel, but to determine the largest size vessel that may be accommodated. Vice Chair Harrison said he did not feel the Board should determine a view corridor, but should continue to focus on navigation.

## **X. Discussion – Las Olas Marina**

Chair Flanigan stated that he had requested this Item be placed on the Agenda because there is no current design for the marina that reflects the Board's desire for 6000 lineal ft. of dockage. The current pro forma submitted by Sasaki is for 5025 lineal ft. He advised that he has been encouraged by the Chair and members of the Beach Redevelopment Board to advance the request for 6000 lineal ft. to the City Commission and to ask the Commission to direct Staff to implement this space as part of the pro forma.

He continued that the change in lineal feet would drastically affect the performance and potential income of the marina; while it would also affect the expense, he noted that docks on the eastern seawall would consist of finger piers, which are more appropriate for the dockage of smaller vessels. An

additional 42 ft. would be taken away from the promenade section of the land component in order to accommodate the greater dockage space.

**Motion** made by Mr. Dean, seconded by Mr. Herhold, to ask Staff to recalculate the pro forma, utilizing 6000 lineal ft., with the accompanying financial projections.

Mr. Cuba advised that there will be complexities associated to increasing the lineal footage of the current pro forma, and stated that Staff would look into the feasibility of this recommendation.

Mr. Dean pointed out that lineal docks will allow the marina to accommodate any size vessel, "one behind the other," which is not a reliable comparison to the existing marina. This configuration would allow for a great deal more latitude.

It was asked whether the current pro forma could be modified by the project's design consultant. Mr. Luscomb replied that Sasaki would need to design the pro forma, and pointed out that it will be necessary to determine whether or not more dredging will be needed, as additional infrastructure will be required in addition to the floating docks. This will affect the amount of money needed for the bond, how much can be sought in grants, and how much must be provided by the City. He explained that simply changing the number of lineal ft. on the pro forma will not show whether all these factors have been taken into consideration.

Vice Chair Harrison asked if Staff could make the necessary calculations and show them to the City Commission, which could then authorize Sasaki to confirm the calculations. Mr. Cuba replied that the Board could make a motion to this effect. Vice Chair Harrison said Sasaki could be asked to redesign the pro forma using 6000 ft. or Staff could be asked to evaluate the effects of this increase and present it to the City Commission. Chair Flanigan said he had spoken with representatives of Sasaki, and the firm would be happy to make this change at the City Commission's direction.

Vice Chair Harrison suggested that the number of waivers related to large vessels that have recently come before the Board could be used to show that there is a desire to bring these larger boats into the City, and a need for dockage space.

Mr. Dean and Mr. Herhold **amended** their **motion** and **second** as follows: **motion** that the Marine Advisory Board is requesting that the City Commission authorize the Sasaki Group to recalculate the Las Olas Marina pro forma, based on 6000 lineal ft. of dockage, as originally proposed by the Board. In a roll call vote, the **motion** passed unanimously.



The Board agreed by consensus that the **motion** would be sent as a communication to the City Commission.

## **XI. Reports**

- **ICW Dredging**

Mr. Luscomb stated that the City has filed for a permit application on February 7, 2013 to dredge the Intracoastal Waterway access from Bahia Mar, the Swimming Hall of Fame, and the entire basin of the Las Olas Marina. They have received two requests for additional information. He added that FDEP has found seagrass in the area to be dredged, which will require another seagrass survey by the City. The recommendation is to perform overlays, which may reduce the amount of mitigation required.

He added that the City has suggested different ideas for mitigation, as the type of seagrass found is not of the same quality found in the past. The City is exploring the possibility of mitigating with different types of seagrass.

Mr. Luscomb continued that the land lease project at the Las Olas Marina will need to go before the Board of Trustees for approval due to the size of the project. It is likely that the Aquatics Center may be required to go before the Board of Trustees as well.

He also pointed out that the dredging permit for which the City has applied is for 15 ft. with a 2 ft. overdredge, which means the waterways may not be dredged to 17 ft. More information will be available on this requirement at the May meeting.

- **Commission Agenda Reports**

Mr. Cuba advised that one waiver has been delayed from the March 19 City Commission meeting to the April 16 meeting. On April 2, three waivers were passed by the Commission.

## **XII. Old / New Business**

None.

## **XIII. Adjournment**

There being no further business to come before the Board at this time, the meeting was adjourned at 9:06 p.m.