

**MINUTES OF THE MARINE ADVISORY BOARD
100 NORTH ANDREWS AVENUE
8TH FLOOR CONFERENCE ROOM
FORT LAUDERDALE, FLORIDA
THURSDAY, MAY 3, 2012 – 6:00 P.M.**

<u>Board Members</u>	Attendance	Cumulative Attendance May 2012 - April 2013	
		<u>Present</u>	<u>Absent</u>
Barry Flanigan, Chair	P	1	0
James Harrison, Vice Chair	P	1	0
F. St. George Guardabassi	P	1	0
Chad Moss	A	0	1
Norbert McLaughlin	P	1	0
Jim Welch	P	1	0
Robert Dean	P	1	0
John Holmes	P	1	0
Bob Ross	P	1	0
Joe Cain	P	1	0
Tom Tapp	P	1	0
Herb Rassing	P	1	0
Frank Herhold	P	1	0
Lisa Scott-Founds	P	1	0
Zane Brisson	P	1	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

Jonathan Luscomb, Supervisor of Marine Facilities
Levend Ekendiz, Intracoastal Facilities Dockmaster
Matt Domke, Downtown Facilities Dockmaster
Sgt. Kevin Shults, Marine Police Staff
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to City Commission

~~Motion made by Chair Flanigan, seconded by Mr. Rassing, that the Marine Advisory Board encourages the continuation of night patrols by the Marine Unit, which are made possible by an Enhanced Marine Law Enforcement Grant (EMLEG). In a voice vote, the motion passed unanimously.~~

to nighttime patrols, and encourage that this program will be continued. In a voice vote, the motion passed unanimously.

It was noted that this motion would be sent as a communication to the City Commission.

VII. Application – Waiver of Limitations / ULDR 47.19.3 – 773 Middle River Drive – Steven Chase

Mr. Luscomb stated that the Applicant is requesting approval of the installation of a single mooring pile and two triple mooring clusters. He provided a survey that showed the distance of these structures' extensions into the Middle River. The mooring pile and clusters are each 60 ft. from the closest structure. He noted that distances in excess of 35 ft. require a waiver.

Mr. McLaughlin advised that he had a conflict with this Item, and recused himself from the Board at this time (6:28 p.m.).

Glenn Bryant of BK Marine Construction, representing the Applicant, explained that there is an existing perpendicular dock on the property. The Applicant hopes to purchase an additional boat, and would like to ensure safe mooring is available before he does so. City Code allows moorings to be placed at a distance of up to 25 ft. into the water; however, the center line of the Applicant's vessel would be beyond this length, which meant the dolphin piles must be extended further into the canal to allow for safe mooring. He asserted that moving the Applicant's mooring piles farther into the canal would be safer for both the Applicant and his neighbors.

Mr. Bryant concluded that the appropriate permits have been requested for the dolphin piles. The area is also a ski zone, which means wakes will occur and vessels may require additional stability.

Chair Flanigan asked if a letter provided by the Coast Guard had been updated. David Nutter of BK Marine said the Application had gone before the Coast Guard in "several different configurations," and the Coast Guard had requested that the Applicant finalize the configuration of the moorings and provide them with the appropriate coordinates for their placement. He stated that the Applicant will submit the configuration to the Coast Guard prior to obtaining the final City and County permits.

Mr. Rassing asked if the Applicant rents his dock space. Mr. Bryant said this was not the case, and explained that an individual leases the property and uses the dock space when the Applicant is out of town.

Mr. Guardabassi asked what size boat the Applicant planned to purchase. Mr. Bryant said this had not yet been determined, but the vessel would be no more than 60 ft. in length.

Mr. Herhold commented that he is familiar with the area, and there are often skiers on the canal. He stated he was concerned that the mooring structures might impede recreational activity, such as skiing or paddleboarding. Chair Flanigan added that the location is one of three areas inside the City that are designated for waterskiing.

Mr. Bryant pointed out that there is an existing no wake sign on the canal, which extends farther than the 60 ft. length of the mooring structures. He showed the location of the sign on a photo of the property.

Mr. Brisson asked if any boats moored across the canal have pilings that extend a similar length into the water. Mr. Bryant said some of these properties' pilings are 70 to 80 ft. into the canal.

Mr. Welch asked if there is a limit to the number of boats an owner may dock in a residential neighborhood. Chair Flanigan said there is no restriction on the number of boats that may be moored in the absence of boat lifts. Mr. Bryant said if an Applicant has more than three boats, he will be required to take measures for fire suppression.

Vice Chair Harrison advised that it would be possible to dock a 180 to 190 ft. vessel on the property while still remaining within 30% of the river. Mr. Bryant said the minimum width of the canal is 580 ft., which meant a vessel up to 174 ft. in length could be docked. Vice Chair Harrison observed that the amount of dockage on the site appeared to be "extreme." Mr. Bryant stated that the Applicant did not plan to put a vessel of the maximum allowed size on the property.

Mr. Ross said he was troubled by the neighbors' responses to the Application, noting that none of them appear to be in favor of the requested waiver. They also note that the area allows water sports. He recalled that a recent law allows boats to anchor "wherever they want for as long as they want," and boats anchor in this area. He felt the combination of anchorage and water sports constituted a safety issue.

Mr. Dean asked to know the depth of the water in the area. Mr. Rensing estimated it was 6 ft. to 10 ft.

Mr. Tapp observed that the Application suggests storage would be provided on the property for up to five vessels. He asked if the vessels are the private property of the owner, noting that the site is located in a residential area. He also

expressed concern with the emails from the Applicant's neighbors. He concluded that he was not sure the Board had sufficient information to grant the waiver without learning more about the neighbors' issues, as well as further research to clarify whether the homeowner was leasing dock space on his property.

Mr. Bryant said dockage is only set up for three slips, including one boat lift and two docked vessels. He asserted that the request was the best possible solution if a large vessel was to be moored on the property.

Mr. Rassing asked why the Applicant was not present at the meeting. Mr. Bryant said he was presently out of town. He added that the Applicant had assured him no dock space is rented.

Mr. Welch asked if anything would be done to mark the dolphin pilings. Mr. Bryant said they would be supplied with reflectors and must be at least 8 ft. above the water at high tide.

Mr. Guardabassi asked if the renter of the property rents the entire home, noting that some letters from neighbors suggest the renter occupies a single room on the property. He pointed out that this could present a zoning issue. Mr. Bryant said he did not have additional information on this. Chair Flanigan said the Board's purview with regard to the Application is strictly related to safety and navigational issues.

Mr. Guardabassi recalled that the Application had appeared on a previous Board Agenda, but was deferred. He asked if BK Marine was involved with the Application at this time. Mr. Bryant explained that the Applicant had changed his mind on what he wished to do. His original intent had been to place more dolphin pilings in the water.

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

Ernest Constantino, private citizen, stated he lives directly across the street from the Applicant. He noted that exemptions to Code requirements are typically granted when the requirement presents an undue hardship on the Applicant and the exemption would have no negative impact on the common good. He felt the Application failed on both counts, as no hardship had been demonstrated, and some neighbors were concerned with the safety of placing dolphin pilings 60 ft. from the dock space. He also felt the Application would result in a negative cosmetic impact to the neighborhood.

Don Goldberg, private citizen, said he has been the Applicant's immediate neighbor to the south for over three years. He recalled that the original Application had been scheduled to come before the Board in December 2010

with a very similar request to the current Application. Mr. Goldberg explained that the previous year, up to five boats had been docked behind the Applicant's property. The property was eventually inspected and the tenants provided a lease showing they rented separate rooms "and the dock," after which time the Application was withdrawn. He also cited an incident in which an individual had stated his intent to rent a room and a slip.

He concluded that the nature of the neighborhood has changed due to the ability of boats to anchor at will, which is sometimes done for a month or months at a time. There is also a great deal of waterskiing, tubing, kayaking, and paddleboarding in the area. Mr. Goldberg felt the current situation was dangerous, and granting the Application would make it more hazardous.

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.

Motion made by Mr. Cain, seconded by Mr. Rassing, that the Application be denied.

Mr. Ross remarked that the issues of room or slip rental were not part of the Board's responsibility, and he did not feel it was fair to categorize the Applicant in this manner. He said they should focus on issues such as safety factors and water uses.

Mr. Tapp agreed, but pointed out that the Board has some responsibility to the neighborhood, as some residents felt the Board did not have all the information they might need to make an informed decision on the Application. He said he was not ready to vote on the Application without further research on these issues.

Chair Flanigan agreed that while the issue of rental was not the Board's responsibility, they could not ignore the neighborhood's responses. Mr. Holmes concurred that safety is the primary issue. He also felt it was significant that the Applicant was not present.

Vice Chair Harrison agreed that the Applicant did not seem to have demonstrated an extraordinary circumstance that would necessitate a waiver. Mr. Herhold added that most Applications for variances before the Board are accompanied by letters of support; he noted that there were no such letters from the community, and reiterated his concern regarding the safety issue.

Mr. Dean stated that the photographs of the property resembled a commercial operation, although this might not be the case. He said if he were a neighbor, he would not be in favor of "expanding the nature of the commercial look."

Chair Flanigan asked if there was a dedicated fire line on the Applicant's dock. Mr. Nutter said the Applicant had spoken with the fire marshal, who had advised he could sign a waiver stating more than three boats would be on the property.

In a roll call vote, the **motion** to deny the Application passed 13-0. (Mr. McLaughlin abstained. A memorandum of voting conflict is attached to these minutes.)

VIII. Reports

Mr. McLaughlin rejoined the Board at this time (7:10 p.m.).

- **New River Seawall Repairs**

Mr. Luscomb reported that repairs are underway for a 300 ft. portion of this seawall. A tow wall is being erected by BK Marine Construction.

- **Sailing Program Update**

He continued that the prospective agreement between the City and the County, which was discussed at the April meeting, had not been enacted. The City had sent the County a draft memo requesting that the County create a beach and storage area at Delavoe Park; however, at present the County is not prepared to take these steps. The backup plan, which involves the use of the Las Olas Marina, will be used instead. The program will begin on June 19, and seven boats are being ordered, and a part-time sailing instructor will be hired for the summer. Two additional Staff members are amassing as much time on the water as possible in order to qualify as level one instructors.

Mr. Rassing said while he applauds the sailing program, he was concerned with the use of the Intracoastal Waterway at Las Olas Marina, as there is a great deal of boat traffic and wave action. Mr. Luscomb advised that the program would take place along the east side of the channel in a no wave zone, and a lifeguard will be on duty. He added that the Marina includes the infrastructure to support the program, including shower facilities and classrooms.

The program will run from 9 a.m.-1 p.m. Monday through Friday. Boats will be white with colored sails for easy visibility.

- **ICW Dredging**

Mr. Luscomb advised that this project is back on track, as contract negotiations are now complete. Task order 3, which identifies potential mitigation sites, has been completed. Up to 16 potential sites within the County were identified, as