



CITY OF FORT LAUDERDALE

**MARINE ADVISORY BOARD
100 NORTH ANDREWS AVENUE
COMMISSION CONFERENCE ROOM – EIGHTH FLOOR
FORT LAUDERDALE, FLORIDA
THURSDAY, MAY 2, 2019 – 6:00 P.M.**

		Cumulative Attendance May 2019 – April 2020	
Grant Henderson, Chair	P	1	0
Ed Strobel, Vice Chair	P	1	0
Cliff Berry II	A	0	1
Robyn Chiarelli	P	1	0
Richard Graves	A	0	1
Rose Ann Lovell	P	1	0
Kitty McGowan	A	0	1
Norbert McLaughlin	P	1	0
Ted Morley	P	1	0
Curtis Parker	A	0	1
Rossana Petreccia	P	1	0
Roy Sea	P	1	0
Randy Sweers	A	0	1
Bill Walker	P	1	0

As of this date, there are 14 appointed members to the Board, which means 8 would constitute a quorum.

Staff

Andrew Cuba, Manager of Marine Facilities
Jonathan Luscomb, Supervisor of Marine Facilities
Sergeant Todd Mills, Fort Lauderdale Police Department
Dr. Nancy Gassman, Public Works Department
Tatiana Guerrier, Recording Secretary, Prototype, Inc.

Communications to City Commission

Motion made by Vice Chair Strobel, seconded by Mr. Sea, to recommend the City Commission approve of the proposed amendment to the City of Fort Lauderdale Municipal Code 8-144, with the two exceptions:

1. To fix the parking issue to make it fair for all people
2. To eliminate the prohibition for riparian right holders to have a dock permit on seawall as long as they pay upgrading for seawall and Code requirements for the life of the permit

In a roll call vote, the **motion** passed 8-0.

I. Call to Order / Roll Call

Chair Henderson called the meeting to order at 6:01 p.m.

II. Approval of Minutes – April 4, 2019

Motion made by Ms. Chiarelli, seconded by Chair Henderson, to approve. In a voice vote, the **motion** passed unanimously.

III. Statement of Quorum

It was noted a quorum was present at the meeting.

IV. Marine Advisory Board Elections

- **Chair**

Motion made by Mr. Strobel, seconded by Mr. Morley, to recommend Grant Henderson as Chair. In a roll call vote, Chair Henderson was re-elected 8-0 (Mr. Henderson not voting).

- **Vice Chair**

Motion made by Mr. McLaughlin, and duly seconded, to nominate Ed Strobel. In a roll call vote, Vice Chair Strobel was re-elected 8-0 (Mr. Strobel not voting).

V. Waterway Crime & Boating Safety Report / Fire Department Report

Sergeant Todd Mills of the Fort Lauderdale Police Department reported the following Marine Unit activity from April 2019:

- 25 citations
- 128 warnings
- 41 safety inspections
- 5 accident reports
- 5 miscellaneous incidents

The Marine Unit has completed replacement of its fleet, and now has three 850 Impacts, three 10-meter boats, and two cabin boats. They will retain their Intrepid vessels for the remainder of their useful lives.

VI. Presentation – Proposed Dock Permit Ordinance / Dr. Nancy Gassman

Dr. Nancy Gassman of the City's Public Works Department provided a PowerPoint presentation on the proposed Dock Permit Ordinance, which was first presented to the Marine Advisory Board (MAB) in February 2019. Since that time, the Department has

received additional feedback from stakeholders and has made adjustments to the proposed Ordinance.

The City owns approximately five miles of seawall, mostly along public streets or street ends. Under Code Section 8.143, the City has the right to regulate public docks. Another section of Code allows for the private use of public facilities, and the MAB has traditionally played a role in determining whether or not that use is appropriate.

The reason the City decided to update the Ordinance is that dock permits are issued by Resolution of the City Commission, and their terms and conditions have varied over several years. Permits typically remain active until the point of sale of upland property owned by the permit holder. This results in a number of abandoned docks for which the City becomes responsible.

Another key issue is sea level rise, the impact of which was not addressed in the existing Ordinance. There have also been questions regarding which property owners were eligible applicants for dock permits, a lack of guidance on dock length and width, and the delineation of private versus public use of the swale and dock. Docks were affecting the integrity of the seawalls, which are intended to protect the roadway. Noncompliance with the terms of the Resolution has also been an issue.

The proposed Ordinance defines eligible and ineligible parcels on which public docks may be built. Ineligible parcels include areas under public dockage or under license, all street ends, a significant portion of Idlewyld Drive, and upland parcels with existing riparian rights. Under the new proposal, a home that has a dock attached to the property line may no longer request dockage on the front of their property as well.

Eligible applicants are limited to upland property owners or upland parcels which lie directly across the street from the public parcel under consideration. Allowable dock lengths and widths are defined by the extension of the side yard setbacks to ensure a gap between each dock so the public will still have access to these locations.

Additional provisions of the proposed Ordinance include recording of the current Resolution as well as renewals. This will ensure that docks are removed when a permit expires, is terminated, or is abandoned, so the City does not become responsible for a derelict dock. The initial term of the permit is five years, with continuing five-year renewal periods if the permit holder remains compliant with the Resolution.

The fee structure for both applications and renewals will be amended, and a provision added to provide for the ability of new homeowners to use an existing dock by applying for that dock permit at the point of sale.

No dock or other penetrating items, such as cleats or ladders, may be attached to the City's seawall without specific authorization. This recognizes that the purpose of the seawall is to protect the nearby roadway rather than to support dockage. Seawall and

dock heights must be constructed in a way that addresses sea level rise. If the existing City seawall is below standard height, the applicant must elevate it; if the seawall is at the correct height, floating or fixed docks must be at the same height or the minimum elevation standard, whichever is greater. The revised Ordinance better defines the public swale and the public's access rights to it, as well as the dock permit holder's right to keep the dock area private.

Boats at the dock must be owned by the permit holder and registered with the City. If the permit holder acquires a new boat, s/he must register that vessel so the City has a current list of boats that may be docked at the location.

Dr. Gassman requested that the Board consider a motion to recommend City Commission approval of the revised Ordinance. If the Board provides a positive recommendation, first reading of the Ordinance is anticipated in June 2019, with second reading in July. The Ordinance would be implemented 10 days after approval upon second reading.

The Board members discussed the Ordinance, with Mr. Sea requesting clarification of whether or not a property owner with a dock on one side of his/her property would be precluded from securing a permit for a dock at a public location. Dr. Gassman explained that properties with their own riparian rights would be excluded from requesting additional riparian access in public space. This would mean no one may secure rights to private use of that space, as there is no qualifying upland property owner.

Ms. Lovell requested clarification of how a new homeowner may apply for a permit to use an existing dock. Dr. Gassman replied that if this homeowner does not submit an application, it is the previous homeowner's responsibility to address the dock. Ms. Lovell observed that many real estate transactions for waterfront properties rely on the understanding that the new owner would be able to use the dock. Dr. Gassman noted that the time frame for securing a new dock permit is approximately two to three months. If the owner states his/her intent to assume responsibility for the dock, the realtor may address this within the sale transaction.

Ms. Petreccia suggested that once a new owner closes on a property, submission of a permit application might be sufficient, regardless of how long the permitting process might take. Dr. Gassman advised that the intent of recording the Resolution is to ensure that the prospective buyer is aware of the obligation for dockage associated with that property. The dock should be part of the conversation regarding the terms of purchase.

Mr. Berry requested additional information on registering vessels with the City. Dr. Gassman explained that when a dock permit application is submitted, the applicant must register the boat(s) s/he plans to dock there as part of that application. If another boat is added at a later time, s/he must again notify the City and provide registration. If a boat is not registered, it can be confiscated by the City and the permit holder considered noncompliant. This could lead to cancellation of the permit and dock removal.

Mr. McLaughlin asked if an individual renting a property owned by a dock permit holder would have use of the dock. Dr. Gassman replied that the only person who may moor a boat at the private dock associated with the subject property is the permit holder. If a boat at the dock is not registered in the permit holder's name, the property owner will need to make an additional effort to demonstrate that the boat is associated with the property.

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

John Rodstrom, attorney representing homeowners on Cordova Road, stated that the revised Ordinance has addressed many of the issues he raised when it was originally presented in February 2019. He had concerns, however, regarding the intent of the proposed Ordinance, and did not feel that property owners with their own riparian rights should be prohibited from requesting an additional dock permit, pointing out that there are several homes on SE 7, 8, and 9 Streets with docks on both sides of their properties.

Mr. Rodstrom continued that the proposed Ordinance limits parking on public swales in the subject areas to the permit holder and his/her invitees for loading and offloading. This could exclude the actual homeowner from similar parking. He concluded that the Board should not recommend approval of the proposed Ordinance at this time.

Dr. Gassman advised that this meeting does not represent the last opportunity at which the public may speak on the proposed Ordinance. There will be two readings before the City Commission at which additional comments may be made. Ordinances often change between first and second readings in order to address these comments.

With regard to permitting, Dr. Gassman pointed out that no homeowner is entitled to dockage that is across the street from his/her property on City roadways. Individuals may not claim the Ordinance would affect their property values, as they do not have rights to the subject property. If an owner has existing riparian rights, there is no reason for the City to provide that individual with additional riparian rights. Permits that currently provide private usage of dock space in these areas will be grandfathered as long as the permit holder continues to live on his or her property and remains in compliance. This also applies to docks on street ends.

Dr. Gassman continued that while individuals may advertise their homes as waterfront properties, homes not located on a true waterfront are not taxed as waterfront properties. The City Attorney's Office has reviewed this issue.

Mr. Sea asked what parties would benefit if a property owner's ability to construct a dock across the street from his/her property is removed. Dr. Gassman explained that this does not constitute depriving that owner of any rights. The City's seawall is in the subject location to protect the City's right-of-way whether or not an individual can request a private dock in that location. Individuals who already have riparian rights for their own properties have no need for additional riparian rights.

Mr. Rodstrom asserted that if the intent of the Ordinance is to allow property owners to come into compliance with Code, this purpose would not be served by removing docks that were constructed on public property without permits. Dr. Gassman pointed out that these docks have been illegally constructed.

Ms. Lovell asked if an online search would show that a property has an unpermitted dock use. She felt there may be individuals with unpermitted docks who do not know they are in violation of the Ordinance. Dr. Gassman stated that ignorance of the law does not excuse an individual from complying with that law.

Patrick McTigue, representing a property owner on Cordova Road, felt that properties in the Rio Vista neighborhood which have permits for docks in City-owned space are sold at a price that reflects the properties' access to the docks. Dr. Gassman clarified that this belief is not consistent with the Broward County Property Appraiser's evaluation of property value.

Mr. McTigue asserted that these properties are sold as if they have the rights to waterfront access and may suffer if the Ordinance is enacted. He continued that a buyer should not have to wait three months to secure a permit for a dock that is already in place. He concluded that there are concerns regarding the inability to attach structures to a seawall, as floating docks secured only to pilings would be subject to the effects of tides and storms.

As there were no other individuals wishing to speak on this Item, the Chair closed the public hearing and brought the discussion back to the Board.

Mr. Morley asked how many of the affected homes in the Rio Vista neighborhood have applied for permits post-sale and been denied. Mr. Cuba replied that he has been approached by two individuals interested in dock permits on Cordova Road; however, their requests have not been held in abeyance for any reason other than the moratorium. There is no historical precedent for denying the holder of a permit the ability to construct a legal dock.

Mr. McLaughlin asked if all individuals who may be affected by the proposed Ordinance were sent notice of its discussion before the Board. Dr. Gassman advised that residents on Cordova Road were provided with notice at their homes, and individuals with whom she had previously spoken regarding the Ordinance were informed of the meeting. Mr. Cuba confirmed that there has been a significant amount of outreach, recalling that several members of the public were present for the Board's initial discussion of the Ordinance in February 2019.

Dr. Gassman advised that all docks will be removed from Cordova Road in summer 2019, when the seawall will be raised. Individuals who previously had valid permits may apply for new permits. She further clarified that structures may abut or touch the seawall, but

may not attach to it. There is no prohibition of boat lifts. The new seawall will have sealed conduits beneath the cap for water service access to each parcel. Priority will be given to existing dock permit holders, and all eligible upland property owners may apply for permits as long as they meet required conditions.

Mr. Berry requested more information on the ease of transfer of permits if a property is sold. Dr. Gassman explained that the current Ordinance does not allow a permit to be reassigned to another entity without approval by the City Commission. The dock itself is not associated with the property, but with the permit holder. Recorded permits may be found through a title search.

Ms. Lovell felt that access to the waterfront affects a property's value upon sale, as well as the taxable value of the property. She also felt upland property owner should be able to allow a family member to use his or her dock. Vice Chair Strobel pointed out that this creates a slippery slope through which any individual associated with a property owner could claim rights of use.

Mr. Berry asked what would happen in the case of a property owner chartering a boat for multiple years. Dr. Gassman replied that this issue has not previously arisen. It was clarified that the owner of a commercial charter boat may not charter the vessel for use in a residential neighborhood.

The Board discussed possible modifications, including the parking language. Ms. Lovell suggested that it could be easier to transfer a permit from one owner to another if a prospective purchaser could secure preliminary approval for approval of an existing dock.

Mr. Sea stated that he was not in favor of prohibiting homes in the Rio Vista neighborhood from having docks on two sides of their properties, as he felt it might be preferable to charge those homes significantly for the privilege. Mr. Cuba estimated that there are fewer than a dozen homes affected by this prohibition. Dr. Gassman clarified that the cost of a dock permit application for these property owners would be the same as the cost for any other applicant. Staff may only charge an administrative fee for these permits.

Motion made by Vice Chair Strobel, seconded by Mr. Sea, to recommend the City Commission approve of the proposed amendment to the City of Fort Lauderdale Municipal Code 8-144, with the two exceptions:

3. To fix the parking issue to make it fair for all people
4. To eliminate the prohibition for riparian right holders to have a dock permit on seawall as long as they pay upgrading for seawall and Code requirements for the life of the permit

Mr. Cuba pointed out that this restriction affected properties not located on SE 8 Street. Vice Chair Strobel **amended** the second bullet point of his **motion** as follows: To eliminate the prohibition on riparian right holders for riparian right holders to have a dock permit on

seawall as long as they pay upgrading for seawall and Code requirements for the life of the permit.

Dr. Gassman pointed out that if an individual applies for a dock permit after the Ordinance is approved, s/he will be required to bring that seawall up to the current standard before s/he may construct a dock. This is applicable on a City-wide basis rather than in any one area. Under the **motion's** suggested language, if the City raises the seawall, this would eliminate those individuals' ability to place a dock on it, as they would not be paying for the improvement of that portion of the seawall.

Ms. Chiarelli left the meeting at 7:19 p.m.

In a roll call vote, the **motion** passed 8-0.

VII. Reports

None.

VIII. Old / New Business

Mr. Berry reported that at the recent Broward County Marine Advisory Summit, recommendations were made regarding written communications. It was determined that the Summit minutes would be distributed to the Board members prior to the June 2019 meeting for further discussion.

Mr. McLaughlin commented that there have been multiple violations regarding the New River Bridge, and asked whether Brightline has paid any of their fines thus far. Patience Cohn, Industry Liaison for the Marine Industries Association of South Florida (MIASF), stated that Brightline is currently in negotiations regarding these fines.

IX. Adjournment

There being no further business to come before the Board at this time, the meeting was adjourned at 7:28 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.]