

**MINUTES OF THE MARINE ADVISORY BOARD
100 NORTH ANDREWS AVENUE
COMMISSION CONFERENCE ROOM – EIGHTH FLOOR
FORT LAUDERDALE, FLORIDA
THURSDAY, FEBRUARY 7, 2019 – 6:00 P.M.**

<u>Board Members</u>	<i>Attendance</i>	Cumulative Attendance May 2018 - April 2019	
		<u>Present</u>	<u>Absent</u>
Grant Henderson, Chair	A	6	1
Ed Strobel, Vice Chair	A	6	1
Cliff Berry II (dep. 7:47)	P	6	1
George Cable	A	4	3
Robyn Chiarelli	P	2	2
Richard Graves	A	5	2
Rose Ann Lovell (dep. 7:00)	P	5	1
Kitty McGowan	P	4	2
Norbert McLaughlin	P	5	1
Ted Morley	P	4	3
Curtis Parker (dep. before adjournment)	P	4	1
Rossanna Petreccia	P	1	0
Roy Sea (dep. 7:47)	P	7	0
Randy Sweers (dep. before adjournment)	P	5	1
Bill Walker	P	5	2

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

Staff

Jonathan Luscomb, Supervisor of Marine Facilities
Sergeant Todd Mills, Fort Lauderdale Police Department
Division Chief Stewart Ahearn, Fort Lauderdale Fire Department
Dr. Nancy Gassman, Public Works Department
Vice Mayor Ben Sorensen, City of Fort Lauderdale
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

Communications to City Commission

None.

I. Call to Order / Roll Call

The meeting was called to order at 6:07 p.m.

As both the Chair and Vice Chair were absent, it was necessary to select an Acting Chair (A/Chair) for the meeting. Both Mr. McLaughlin and Mr. Walker were nominated. In a show of hands, the Board elected Mr. Walker as A/Chair.

Roll was called at this time.

II. Approval of Minutes – January 3, 2019

Motion made by Mr. Morley, seconded by Ms. McGowan, 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. Introduction of New Member – Rossanna Petreccia

New Board member Rossanna Petreccia introduced herself at this time.

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 January 2019:

- 30 citations
- 80 warnings
- 39 safety inspections
- 1 boating accident
- 2 burglaries

Sgt. Mills recalled that in 2018, a regulation was passed permitting vessels to be inspected only once and not again. He advised that this policy has changed, and new inspection stickers will now be good for one year. He reviewed details of the burglaries and other miscellaneous calls to which the Marine Unit responded.

Division Chief Stewart Ahearn of the Fort Lauderdale Fire Department reported the following activity from January 2019:

- 17 fire boat calls
- 1 medical emergency
- 2 boat fires
- 1 search and rescue
- 2 HAZMAT calls
- 1 boating accident

Division Chief Ahearn continued that there were 318 calls to the Fire Department regarding incidents on the water in 2018. This number reflects a steady progression in the number of calls. Sundays have proved to be the Department's busiest day for these calls. More than 80% of calls occur between 8 a.m. and 8 p.m., although calls received at night are typically more severe.

A/Chair Walker welcomed Fort Lauderdale Vice Mayor Ben Sorensen to the meeting.

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

Dr. Nancy Gassman of the Public Works Department showed a PowerPoint presentation on a proposed dock permit Ordinance, which was distributed to the Marine Advisory Board (MAB) members earlier in the week. The City owns several seawalls throughout Fort Lauderdale, most of which are adjacent to public streets or street ends. The Code of Ordinances establishes the City's riparian rights at these locations, as well as the right to regulate docks.

Under Code Section 8-144, the City Commission may grant permits for the private use of public property where private property abuts waterways. The MAB has played a key role in reviewing dock permit applications. The City is considering modification of this Ordinance due to the effects of sea level rise.

A new seawall elevation standard was adopted in 2016. In order to comply with this standard, the City is currently elevating a number of seawalls, including the structure along Cordova Road, where a significant number of dock permits have been issued. In the process of elevating the seawall at this location, all existing docks will be removed. This provides an opportunity to update dock permit requirements.

The current Ordinance includes the following 11 provisions:

- Revocability
- Maintenance of seawall by the permit holder
- Maintenance of public swale
- Permits are non-transferable
- Dock cannot be rented or leased
- No private signage may be posted
- The City is held harmless in the event of damage or injury
- Street ends and swales must be kept open to the public
- Permit holders must remove improvements upon request
- Resolutions of approval may include additional terms and conditions
- Only public areas not needed by the City are eligible for these permits

Because the terms and conditions of Resolutions approving these dock permits have varied greatly over time, the administrative fee charged for an application no longer

covers the cost to process Resolutions. Permits typically remain active until the point of sale of the permit holder's property, which can trigger certain issues, such as abandonment of the dock. This also creates a financial burden on the City. The revised Ordinance will also address the effects of sea level rise on seawalls and docks.

Permit holders have expressed the desire for better guidelines regarding who can or cannot apply for a dock permit. The revised Ordinance will also include additional language regarding the width of docks. Other concerns include the effects of private docks on the public swale and the public seawall itself.

Dr. Gassman emphasized that the Ordinance provided to Board members is a draft for discussion purposes. The City's intent is to hear feedback from the MAB and the public, and to make adjustments to the proposed Ordinance as appropriate.

Key provisions in the proposed Ordinance include:

- Clarifying who may apply for a dock permit
- Definition of upland and neighboring upland parcels
- Clarifying allowable dock height and width

Dr. Gassman explained that individuals on Cordova Road who live across the street from the waterway, for example, have upland parcels. Width of the dock is related to the extension of side yards, minus an applicable setback. Neighboring upland parcel owners within 300 ft. of the parcel on which they would like to construct a dock are also eligible for dock permits.

Another key provision of the proposed Ordinance is the obligation of the permit holder to remove the dock and related improvements upon expiration or termination of the permit. The permit holder must post a security deposit to remove the dock at the time of application. The City also requires the dock permit to be recorded by the permit holder, which provides the opportunity for discovery of the permit and insurance that the dock is removed or a new homeowner applies for the permit.

While the current Ordinance states that dock permits will be available for a fixed time period and are intended to be temporary, the revised Ordinance sets the initial term of the permit at four years, with two three-year renewal options. Additional language provides the opportunity for a new homeowner to apply for the dock permit, which would mean the previous permit holder would not have to remove the dock. Administrative fees for the permit application process and the renewals are included.

The revised Ordinance would prohibit penetration of the City's seawall or attaching improvements to the seawall unless authorized. This recognizes that the purpose of the City's seawall is to protect the public right-of-way.

The seawall and dock heights must address sea level rise over the expected lifespan of the dock and seawall. If an existing City seawall is below the elevation standard,

issuance of a dock permit would require the permit holder to raise the City's seawall to the new height. Dr. Gassman advised that all applications received over the past several months include a requirement to raise the City's seawall to the new standard. Docks must be either floating docks, fixed structures at the minimum sea level elevation standard, or the same height as the City's seawall, whichever is greater.

The current Ordinance includes language referring to the public's access right to both the public swale and dockage. This language is maintained and the public's access rights are more clearly defined for the swale area; however, the dock itself would now remain private under the proposed Ordinance.

Other provisions of the revised Ordinance include limitations to parking on the swale to on- and off-loading, as well as a prohibition for land-side fueling of boats associated with these parcels. Dr. Gassman noted that a list of frequently asked questions (FAQs) will be updated with information from the Board. A public stakeholder meeting is scheduled for February 26, 2019 at 6 p.m. in City Commission Chambers. The target audience for this meeting is Cordova Road residents, as part of the discussion will focus on the Cordova Road Seawall Elevation Project; however, all members of the public are welcome at the meeting.

Dr. Gassman noted that one provision of the proposed Ordinance addresses not only street ends, but areas where a curvature of the roadway exists, resulting in more than one property owner located directly across the street. The revision also establishes what would happen if there is competition between property owners for a given space.

A/Chair Walker recalled that Dr. Gassman had previously shown the Board a presentation relating to sea level rise. Dr. Gassman advised that seawalls on Cordova Road, Isle of Palms, and other locations are being raised over the next two years. If the City's Stormwater Master Plan is funded by the end of summer 2019, renovation of an additional 10 seawalls would be included in its drainage improvements.

Ms. McGowan requested an overview of what the public's objections to the proposed Ordinance might be. Dr. Gassman replied that she could not speak to these potential concerns, particularly as tonight's MAB meeting is the City's first public hearing for the proposal.

Mr. McLaughlin asked if a new homeowner would have the first chance to take over a dock if they purchase a parcel sold by a permit holder, or if other nearby property owners would have equal opportunity to apply for a new permit. Dr. Gassman explained that the Ordinance addresses this on a "first come, first served" basis. If an existing dock is attached to a property, the dock permit does not expire until the point of sale for that property as long as it remains within the term of the Resolution. The new property owner may request an application prior to the expiration of the previous owner's permit. Dr. Gassman strongly emphasized that dock permits are not transferable.

Ms. Lovell asked if private property owners in Fort Lauderdale are currently required to raise the height of their seawalls. Dr. Gassman stated that if a seawall is in disrepair or if tidal waters flow over the structure and cause flooding to adjacent properties or the public right-of-way, that property owner may be cited. Raising the seawall to the new standard may be one outcome of the citation. This is not a mandate for homeowners whose seawalls are not in disrepair or do not create issues for neighboring properties.

Ms. McGowan asked what would happen at the end of a permit's 10-year term. Dr. Gassman replied that once both three-year renewals have been exhausted, the permit holder must submit a new application. The City is currently working to determine the fees for renewals, which will be determined by separate Resolution. She estimated that the permit application itself may cost approximately \$1500, with the renewal in the range of roughly \$300.

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

Connie Kaplan, private citizen, asked what is expected to happen to dock structures and their amenities when the seawall is raised. Dr. Gassman explained that legal water and electrical connections to docks would be left intact during seawall construction as long as they do not impede the process. All docks along Cordova Road, however, will be removed, and utilities must be disconnected in these locations. It is not the City's intention to revoke all dock permits on Cordova Road at this time, although permit holders will need to apply for amended permits, as the Resolutions for those permits provide guidance regarding what type of dock the permit holder may install.

John Roth, private citizen, asked if he would be required to completely replace a City seawall in poor condition, or if he could only replace the cap. Dr. Gassman replied that if a dock permit is requested for a City seawall that is degraded, he would need to completely replace the structure.

Heather Withers, private citizen, requested clarification of "neighboring upland" parcels. Dr. Gassman advised that this is a new definition that will be part of the proposed Ordinance. The intent is that individuals who currently live across the waterways have a defined privilege to apply for a dock. Existing permit holders have requested that property owners who live across the waterway have the right to apply for the permit as well. Random individuals may not come into a neighborhood where they do not live and apply for a dock permit there.

Ms. Withers asked how she would be notified when her dock permit is set for renewal or expiration, expressing concern that a second application could be filed for the same dock permit. Dr. Gassman confirmed that preference would be given to the current permit holder if s/he is the immediate upland property owner. The City will ensure that the permit holder is aware that the permit is set to expire by sending out renewal notices.

Ms. Withers asked what would happen if she did not wish to renew her dock permit, asking if it would be preferable to maintain the area as open space rather than issue a dock permit to another neighboring upland property owner. Dr. Gassman stated that the City does not pursue the issuance of dock permits: it is an opportunity that is open to residents. The provision for neighboring upland property owners is included in the proposed Ordinance because the City is already dealing with this issue in some locations. The renewal process is intended in part to give City inspectors the opportunity to visit the property and ensure that activity there is consistent with City Ordinances.

Greg Lica, private citizen, asserted that Code Enforcement is not aware of the rules regarding the rental of private dock space and therefore cannot enforce them. He felt the proposed Ordinance would increase the likelihood that permit holders would rent dock space. Dr. Gassman explained that the intent of adding new definitions is to address this and similar concerns.

John Rouster, private citizen, expressed concern with Subsection 6 of the proposed Ordinance, which prohibits penetration of or attachment to the City seawall unless specifically permitted during the dock building permit review process and upon demonstration of extreme hardship. He asked how penetration of the seawall affected the dock permitting process, as well as how a dock could be installed without penetrating the seawall.

Dr. Gassman advised that the seawall structure is not intended to assist in the construction of a dock, but to protect the roadway. The City does not provide a permit holder the right to drill into, attach to, or otherwise affect the integrity of the seawall. She clarified that an individual who plans to raise the City's seawall and attach a dock to it may be subject to a different condition, depending upon the seawall.

Mr. Rouster pointed out that the majority of the City's seawall seems to have docks attached to it. Dr. Gassman stated that the City is preparing to invest approximately \$6 million in replacing the seawall on Cordova Road, which means it has a vested interest in protecting that structure and ensuring nothing is attached that might potentially damage the structure.

Mr. Rouster asked if there are studies suggesting that attaching a dock to a seawall compromises the integrity of the structure. Dr. Gassman noted that seawalls on Cordova Road are in disrepair at locations where a dock, cleat, or other structure was attached to or drilled into it. The City is seeking to protect its investment in the neighborhood by preventing further attachment or intrusion.

Mr. Rouster noted that the proposed Ordinance does not refer to the process by which permit holders will be notified when their permits are up for renewal or set to expire. He suggested that a notice provision be added to the Ordinance. Dr. Gassman agreed that this could be considered, further clarifying that notice of the upcoming public meeting

would be provided to all current dock permit holders as well as upland property owners. Mr. Rouster asked if boat lifts are allowed with dock permits. Dr. Gassman confirmed this, noting that lifts may be installed without attachment to the seawall.

Austin Forman, private citizen, asserted that the proposed Ordinance should protect the rights of abutting property owners by not allowing upland property owners to construct docks on public properties next to other homes. He noted that homes on Cordova Road are appraised and taxed as waterfront properties: by removing existing docks, the City would affect the properties' assessed value.

Mr. Forman continued that many homeowners on Cordova Road have installed and maintained docks on public property without having applied for permits. He stated that every homeowner should be provided with notice of the proposed Ordinance. He concluded that the issue of a revised Ordinance should be tabled until the issues he has raised can be addressed.

John Milledge, attorney representing Mr. Forman, suggested that the Board refrain from endorsement of the proposed Ordinance until additional public meetings have been held and Staff has heard more feedback. He pointed out that while owners of seawalls on private property have more time to comply with the City's new height standard, the seawall on Cordova Road would be raised to this standard immediately. He advised that the revised process by which individuals could apply for private use of public property could result in pitting neighbors against one another, and recommended that existing permits be grandfathered.

A/Chair Walker clarified that the Item is before the Board for presentation only: no vote would be taken regarding the Ordinance at tonight's meeting.

Neil Kalus, private citizen, commented that requiring the permit holder to record his/her permit in public records so it would be available during a title search would be a positive change, as this could add value to a property. He expressed concern with the 10-year time frame for permits, however, as allowing for the automatic renewal of permits would maintain property value and contribute to the City's tax base. He was also concerned with the expense of securing a bond for a private dock constructed on public property. He felt the Ordinance requires additional study before it is enacted.

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

Mr. McLaughlin asked if seawalls will be required in places where a natural bank exists. Dr. Gassman replied that while the proposed Ordinance allows for the existence of natural banks, the property owner is still required to prevent tidal flows from intruding onto neighboring properties or the public right-of-way. This includes City properties as well as private properties. Mr. McLaughlin also addressed attachment to seawalls,

noting that other South Florida cities allow for specific types of attachment that are less likely to compromise the seawall.

Dr. Gassman concluded that the City is not seeking to make a decision at this time, but to hear input and concerns from the public regarding the proposed Ordinance. She thanked all present for their feedback.

VII. Discussion – February 20, 2019 Marine Summit Topics

A/Chair Walker requested input from the Board regarding potential topics for the upcoming Broward County Marine Summit.

Mr. McLaughlin provided a handout to the Board members listing his proposed topics, noting that the increasing size of boats on the New River affects space for navigation. He felt the City should seek to prevent any further obstructions in the navigational channel by allowing additional waivers for docks or mooring piles on the New River.

A/Chair Walker stated that he has heard concerns from the Marine Industries Association of South Florida (MIASF) as well as the Greater Fort Lauderdale Chamber of Commerce regarding Brightline train service, which affects bridge openings and closures. There has been discussion of constructing a new bridge south of the New River, which could cost approximately \$660 million. Current regulations require that the bridge may be down for one hour within every two-hour period. A/Chair Walker suggested that the proposed new bridge could be funded using surtax revenue from the recently passed one-cent sales tax in Broward County, which is intended to fund transportation projects.

Mr. Morley commented that another bridge issue affecting marine trade on the New River is construction on the 3rd Avenue Bridge to accommodate the Wave streetcar. He asked if this project is expected to proceed, as the Wave project has been cancelled. A/Chair Walker replied that he did not know the answer to this question, and recommended that this issue be raised at the upcoming Marine Summit.

Mr. Morley also requested an update on the status of a proposed pedestrian bridge over the New River. A/Chair Walker replied that an engineering study remains underway, although the Board has stated its opposition to this project.

Mr. Luscomb requested clarification of how the Board wished to raise the issue of bridge project notifications. Ms. McGowan suggested that an industry-wide call list be compiled so notifications are sent to appropriate parties when work is planned on bridges. It was noted that bridge issues related to Brightline service would also be raised at the upcoming Marine Summit.

Ms. McGowan continued that another key topic is dredging. Mr. Luscomb advised that approximately one year ago, City Staff retained a consultant for a study of the City's

waterways to determine which ones are in need of dredging. The City had intended to assess the cost of dredging to property owners who live on these canals; in addition, only the center 40% of the canal would be dredged to 5.5 ft. Because this proposal was not positively received, the issue was tabled and the existing system, which budgets a certain amount for dredging each year, will continue. Canals in need of dredging are placed on a waiting list. There is currently no maintenance dredging program in effect for Fort Lauderdale.

Mr. Berry and Mr. Sea left the meeting at 7:47 p.m.

VIII. Reports

John Roth, private citizen, advised that technology is in use in Europe that can raise or lower a railroad drawbridge in less than one minute. He concluded that the City's website should include easily accessible information on the proposed Ordinance regarding dock permits.

IX. Old / New Business – August 1, 2019 MAB (July 4, 2019 Alternate Meeting Date)

Ms. Chiarelli stated that the operator of the Water Trolley is now Water Taxi of Fort Lauderdale. Service hours will increase from 9.5 hours to 12 hours per day.

A/Chair Walker noted that there is an upcoming vote regarding a parks bond and Police station bond. The parks bond is expected to increase to \$200 million. The Police station bond would fund the construction of a new facility. Flyers are available from the City with more information on these proposals.

Mr. McLaughlin advised that MIAASF's waterway cleanup is scheduled for March 2, 2019, beginning at 9:00 a.m.

X. Adjournment

There being no further business to come before the Board at this time, the meeting was adjourned at 8:00 p.m.

Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.