



CITY OF FORT LAUDERDALE

**MARINE ADVISORY BOARD  
100 NORTH ANDREWS AVENUE  
COMMISSION CONFERENCE ROOM – EIGHTH FLOOR  
FORT LAUDERDALE, FLORIDA  
THURSDAY, AUGUST 1, 2019 – 6:00 P.M.**

**Cumulative Attendance  
May 2019 – April 2020**

Grant Henderson, Chair	P	3	0
Ed Strobel, Vice Chair	A	2	1
Cliff Berry II	P	2	1
Robyn Chiarelli	A	2	1
Richard Graves	P	2	1
Rose Ann Lovell	P	3	0
Kitty McGowan	P	1	2
Norbert McLaughlin	P	3	0
Ted Morley	A	1	2
Curtis Parker	A	1	2
Rossana Petreccia (arr. 6:23)	P	2	1
Roy Sea	P	3	0
Randy Sweers	A	0	2
Bill Walker	P	3	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, Marine Facilities Supervisor  
Sergeant Todd Mills, Fort Lauderdale Police Department  
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

**Communications to City Commission**

None.

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

Chair Henderson called the meeting to order at 6:00 p.m.

**II. Approval of Minutes – June 6, 2019**

**Motion** made by Mr. Walker, seconded by Mr. McLaughlin, 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. Waterway Crime & Boating Safety Report / Fire Department Report**

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

- 15 citations
- 123 warnings
- 38 safety inspections
- 1 accident
- 2 burglaries
- 1 miscellaneous incident

Sgt. Mills also reported the following activity from July 2019:

- 14 citations
- 124 warnings
- 39 safety inspections
- 3 accidents
- 1 burglary
- 5 miscellaneous incidents

Sgt. Mills added that several checks were performed on Lake Sylvia, where the Marine Unit receives several complaints regarding pump-outs. No vessels were found to be in violation.

### **V. Waiver of Limitations – 2040 SE 17<sup>th</sup> Street / Sails Ventures, LLC, Mr. Nicholas Beucher III**

Tyler Chappell, representing the Applicant, showed a PowerPoint presentation on the Application, which affects an existing marina on the Intracoastal Waterway and 17<sup>th</sup> Street. The facility includes a fueling area, fixed and floating docks, and slips on the canal. The distance from the property's corners to the edge of the channel is 187.5 ft.

Mr. Chappell explained that the proposed plan would remove the fixed dock and replace it with a floating dock 300 ft. long and 20 ft. wide. This dock would extend 142 ft. from the seawall, where it would be shifted 30 ft. from the location of the existing fixed dock. The new design provides a better opening to the marina basin from the south. The property's northernmost dock extends 3.4 ft. beyond the 25 ft. limitation from the property line. The floating dock on the southern end of the property also extends 69.3 ft. from the property line.

Mr. Chappell showed aerial views of the existing dock, which is being removed, in comparison to the proposed southern dock. The existing dock extends 121 ft. from the seawall corner, while the proposed dock will be 209 ft. to the corner of the seawall, providing better access into and out of the canal and basin. The 30 ft. shift removes 71 linear ft. of dockage.

Extraordinary circumstances include ensuring that no boat slips or structures would exceed the 62.5 ft. setback from the eastern edge of the Intracoastal Waterway. The floating dock will provide more room for the safe mooring of vessels as well as an improved docking system. All permits have been issued from the Army Corps of Engineers, the Florida Department of Environmental Protection (DEP), and Broward County. Mr. Chappell provided letters of support from the surrounding community.

If approved, the marina will be the first facility in Fort Lauderdale and Broward County to receive International Ship and Port Facility Security (ISPS) certification. This system provides ports and marine facilities with additional protection for vessels coming into the community. No entry or exit will be provided without proper certification. The facility's normal operations are not expected to change, nor is the number of slips expected to increase.

Mr. Walker asked if there will be any change in the marina's depth. Mr. Chappell advised that depth increases with distance from the shallower area of the basin on its eastern side. No dredging is planned for the site.

Ms. Petreccia arrived at 6:23 p.m.

Mr. Walker also asked if there are any restrictions on the canal. Mr. Chappell identified an access easement that extends from the center line of the canal to allow ingress/egress. He added that vessels may extend south past the end of the new floating dock, but are not expected to extend further than vessels at the current dock. No dolphin piles are proposed for the property.

Chair Henderson asked why the plans extend further south. Mr. Chappell replied that this allows for a landing platform as well as additional distance from the corner of the seawall. Fueling will be allowed in two places, with future plans for fueling off the seawall. Plans for the rest of the property have not yet been finalized, although they include a pavilion area for the Fort Lauderdale International Boat Show.

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

Monica Figueroa, private citizen, explained that she is a resident of the Harbor Colony Cooperative, which is directly south of the proposed pier. She advised that pier installation is not the only issue affecting the subject property: there is also a proposed

program to create a mega-yacht marina. She noted that the historic use of the property is commercial adjacent to residential use.

Ms. Figueroa continued that yachts extend past the property on which they are located before the proposed extension. Nearby residents have not been provided with detailed plans or a comprehensive description of the marina's operating program, such as a vessel traffic study. She concluded that there should be assurance that the request for approval takes the cooperative's new dock into account as part of its master plans, or at least assures the nearby community that approval would not adversely affect their ability to use their riparian rights to the full extent on the west and north frontages.

Mr. Chappell characterized the Application as a reduction rather than an expansion, stating that the Applicant is not changing operations or the size of vessels permitted. The request would decrease the southern extent of the dock by 71 ft. He reiterated that an existing access easement will remain in place.

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.

Ms. McGowan commented that the reduced length of one dock seemed to provide easier access to and from the navigable waterway. Chair Henderson noted that while a very large vessel on the western dock would decrease access to the waterway, there is still ample room for other vessels. The channel of the Intracoastal Waterway is 125 ft. and the waterway itself is 650 ft. across.

**Motion** made by Ms. Lovell, seconded by Ms. McGowan, to approve. In a voice vote, the **motion** passed unanimously.

**VI. Waiver of Limitations – 1180 N. Federal Highway, Unit #1608 Slip #10 / Robert McComsey**

Adam Licht, representing the Applicant, showed a site map, stating that the location of the proposed waiver is north of Sunrise Boulevard and west of George English Park. Slip #10 is located 345 ft. from the natural shoreline of the Park. The waiver request would move the proposed boat lift 5 ft. to the east over the 25 ft. limitation. Two piles required within the waiver will serve as guide poles and will be permanently covered in reflective tape.

Mr. Licht advised that requests on the same property have been seen by the City on March 7 and April 4, 2019. Both requests were approved.

Mr. Cuba advised that there may be one boat lift per 100 ft. of the property, which is 410 ft. wide. Because the Application does not propose the fourth boat lift at that location, it is reviewable by the Board.

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

**Motion** made by Ms. McGowan, seconded by Mr. Graves, to approve. In a voice vote, the **motion** passed unanimously.

## **VII. Presentation – Bareboat Charter Operations / Andrew Cohen**

Andrew Cohen, representing Staying Afloat Party Boat, provided some background information on what is and is not legal for bareboat charter operations within Fort Lauderdale. For charter operations, the vessel owner gives up access of the boat to the charterer. A bareboat, on the other hand, does not allow owners to specify or dictate crew. The charterer has use of the vessel and is considered the owner for a given period of time. The contract must be provided on the vessel: electronic copies are not accepted by the Coast Guard.

Governing regulations for bareboat charters include but are not limited to:

- Passenger Vessel Safety Act of 1993
- Navigation and Vessel Inspection Curriculum No. 7-94
- HR 151-159 (further clarifies the Passenger Vessel Safety Act)
- 46 Code of Federal Regulations (CFR) 175.110, 175.400, 24.10, 2102 for small passenger vessels

Determining the appropriate category for a vessel requires knowledge of the number of passengers on a vessel, as well as whether the vessel is used to carry passengers for hire, which are defined as passengers who have given a contribution for carriage on the vessel. Other considerations include whether or not the vessel operates under a charter agreement and if the crew is provided or specified.

Bareboat charters do not require passengers for hire, as ownership of the vessel is transferred to the charterer for a specific length of time. There are seven to twelve or fewer passengers on a bareboat, which is chartered without crew and considered a recreational vessel.

The following elements make a bareboat charter valid:

- Charterer must have the option to select crew and dismiss them at any point
- Master and crew are paid by the charterer
- All food/fuel stores are provided by the charterer
- Insurance is obtained by the charterer
- Charterer is responsible for safe navigation of the vessel
- Vessel may be used as a platform for events
- Vessel is surveyed upon delivery and return

The owner of a charter bareboat may require a minimum level of proficiency, such as a captain's license, for the crew hired by the charterer. The charterer is not considered a passenger, as s/he is considered to be the owner of the vessel for the duration of the charter. If multiple individuals charter the boat, only one is considered the legal charterer. Bareboat chartered vessels are restricted to the manufacturer's passenger capacity.

Common errors made by bareboat charters include:

- Allowing more than 12 passengers without a certificate of inspection
- Owner of the vessel is not allowed on board during a charter
- Bareboat contracts may not provide or dictate crew
- There may be only one legal charterer

Mr. Cohen continued that his company also owns a crew placement agency from which charterers may hire captains. He cautioned that unscrupulous practices in other cities can lead to injuries. His company works closely with the Coast Guard as well as with the Department of Homeland Security in Miami.

Mr. Graves asked if a charterer may hire his/her own captain from any source. Mr. Cohen confirmed this is possible if the captain meets the business's minimum requirements, which include a 100 ton Master Coast Guard License and 100 days' experience on a pontoon boat. Insurance from the charterer covers liability and pays the insurance company.

Ms. McGowan commented that the Coast Guard has concerns regarding bareboat charters. Mr. Cohen explained that the Coast Guard is not anti-bareboat charters as long as they abide by the listed regulations. Because some charter services operated illegally through channels such as Craigslist, the Coast Guard has cracked down on these types of operators.

Ms. McGowan asked why this presentation came before the Board. Mr. Cuba advised that because the Board has expressed concerns with illegal bareboat operators, he had invited Mr. Cohen to address the members.

The following Item was taken out of order on the Agenda.

## **IX. Discussion – Mooring Fields**

Mr. Luscomb recalled that there had been discussion of Lake Sylvia at the June 2019 meeting. Under a 2009 pilot program introduced by the state, municipalities did not have sufficient regulatory privilege to regulate their waterways, including anchoring. In 2017, new regulations specified that only municipalities with submerged land leases may implement mooring fields.

Since the sunset of the 2009 pilot program, there have been new laws intended to address anchoring, which include:

- Mooring fields must be at least 150 ft. from a marina, seawall, or other marine structure or launching/loading facility
- Vessels may not anchor within 300 ft. of a super-yacht repair facility or 100 ft. outward of the marked boundary of a public mooring field; exemptions to the 100 ft. restriction include commercial fishing boats and construction barges operating nearby, as well as government vessels

At present, all municipalities must apply for a mooring field general permit, which establishes conditions specific to the mooring field. These include a requirement for a municipally owned or contracted upland support facility. The facility must provide amenities, such as showers, a dinghy dock, a pump-out station, restrooms, and other conveniences. He advised that these requirements may be onerous for many municipalities.

Mooring fields may not be established in fresh water, may not encroach on navigable channels, must follow a manatee protection plan, and must provide kiosks with information on environmental requirements. A vessel remaining in a mooring field for seven or more days is required to pump out every seven days while at the facility.

Regarding the costs of establishing a mooring field, Mr. Luscomb noted that in 2003, the city of Sarasota implemented 109 moorings at a cost of \$518,000. He reviewed other nearby costs associated with mooring fields. The Las Olas Marina provides 10 moorings, for which they pay an annual fee to the state for the submerged land lease. The moorings generate approximately \$42,000/year. Broward County is in the process of implementing two mooring fields with the intent of pushing out derelict vessels at the locations.

Mr. Luscomb concluded that the state appears to be passing the issue of derelict vessels on to municipalities by providing them with the opportunity to rent land from the state. All submerged land leases from the state cost 17 cents per sq. ft. This means the lease at Las Olas Marina, for example, costs up to \$15,000 per year for only 10 moorings on 120,000 sq. ft.

### **VIII. Discussion – Dock Criteria and Navigational Impacts**

Mr. Cuba recalled that at the June 2019 meeting, the Board also raised concerns regarding dock installations on the New River that do not exceed the 25% regulation. These projects would not come before the Board for approval, although they could result in navigational issues. He cited a dock under construction on the south side of the New River as an example.

Mr. McLaughlin asserted that if the Board has an objection to a particular dock, they may wish to send a communication to the City Commission stating they would like to

see more information about that project. Mr. Cuba stated that the Board may send any communication it wishes to the City Commission, and members may reach out to their Commissioners or the Department of Sustainable Development in an individual capacity; however, these projects would not come before the Board for review. Mr. McLaughlin also expressed concern with navigable channels that do not run directly down the center of the waterway. Mr. Cuba noted that the 30% distance regulation, which is measured from property lines, would still apply in this case.

## **X. Reports**

None.

## **XI. Old / New Business**

Paul Chettle, private citizen, addressed the Las Olas Marina project, which came before the Board at their June 6, 2019 meeting. Although he has been supportive of the project in the past, this is no longer the case, as plans for the marina have changed significantly since the first alternative for the project was presented to the public. He recalled that when the marina was presented to the Board on June 6, it was not an Agenda Item, the presentation included only an artist's rendering, and there was no public input.

Mr. Chettle continued that in 2015, the marina's expected occupancy was an annual rate of 69%, which was expected to increase to 72% after the first five years of operation and up to 80% after the first ten years. The current presentation did not include information on dockage. He added that the current proposal will be marketed to vessels in the 80 ft. to 150 ft. range.

Mr. Chettle asserted that State Statute 253.0346 requires 90% of a public marina to be available to the public, which is inconsistent with conventional wisdom regarding mega-yacht marinas. He also expressed concern with a federal requirement that only 67% of total linear footage be permitted for vessels above 16 ft. in length. Additional concerns include the facilities on the upland portion of the property, the location of a planned restaurant, development costs, and a lack of economic detail about the project.

Mr. Walker asked if any of this information was presented when the project went before the City's Planning and Zoning Board. He recalled that the Board's communication to the City Commission regarding the marina had requested that they be informed of further changes to the project. Mr. Chettle replied that the project's specifications did not conflict with the City's zoning requirements for its district. Issues raised by nearby residents of the marina primarily concerned density and traffic. He noted, however, that an in-season traffic study of the area would be required of the City.

Mr. Sea requested clarification of when the condominiums surrounding the project had agreed to the plan. Mr. Chettle responded that this was in October 2016, when all five

buildings met and supported an earlier alternative. Mr. Sea noted that two of these buildings have lost their western view to the project.

Ms. Lovell pointed out that the Board's role is to assess the project as presented rather than to review zoning, the request for qualifications, or the proposed upland buildings. She advised that additional concerns may be presented at the City Commission level, as the Board's responsibility was to assess the slip layout of the marina.

Mr. Cuba clarified that representatives of the project had reached out to him the day of the June 6, 2019 meeting to request that they make a presentation. Upon conferring with the City Clerk's and City Attorney's Offices, he had been advised that the project could be presented under Old Business. He reiterated that the Board's communication to the City Commission had requested the project come back before them if substantial changes were made.

## **XII. Adjournment**

There being no further business to come before the Board at this time, the meeting was adjourned at 7:40 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.]