



CITY OF FORT LAUDERDALE

**MEETING MINUTES  
CITY OF FORT LAUDERDALE  
MARINE ADVISORY BOARD  
100 NORTH ANDREWS AVENUE  
CITY COMMISSION CHAMBERS  
1<sup>ST</sup> FLOOR CITY HALL  
THURSDAY, SEPTEMBER 1, 2022 – 6:00 P.M.**

**Cumulative Attendance  
January-December 2022**

Ted Morley, Chair	A	5	2
Steve Witten, Vice Chair	A	5	2
Michael Boyer	P	1	0
Robyn Chiarelli	A	4	3
Bob Denison	P	5	2
Barry Flanigan	P	7	0
Robert Franks	P	4	0
James Harrison	P	7	0
Brewster Knott	P	1	0
Norbert McLaughlin	P	6	1
Noelle Norvell	P	5	2

As of this date, there are 11 appointed members to the Board, which means 6 would constitute a quorum.

**Staff**

Andrew Cuba, Marine Facilities Manager  
Jonathan Luscomb, Marine Facilities Supervisor  
Sergeant Travis O'Neil, Fort Lauderdale Police Department  
Dr. Nancy Gassman, Assistant Director of Public Works  
Carla Blair, Recording Secretary, Prototype, Inc.

**Communications to City Commission**

None.

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

The meeting was called to order at 6:03 p.m. and roll was taken.

As neither the Chair nor Vice Chair was present at tonight's meeting, it was noted that the Board would elect an Acting Chair (A/Chair) to preside in their absence. It was determined that Mr. Harrison would serve as A/Chair.

## **II. Approval of Minutes – July 7, 2022**

Mr. McLaughlin noted the following change to P.5, paragraph 4 of the July 7, 2022 minutes: change “operation” to “opposition.”

A/Chair Harrison also noted a correction to P.6, paragraph 6: Mr. Piotrowski is not a member of the Marine Industries Association of South Florida (MIASF).

**Motion** made by Mr. Flanigan, seconded by Mr. McLaughlin, to approve the minutes with the amended items. In a voice vote, the **motion** passed unanimously.

## **III. Statement of Quorum**

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

## **IV. Introduction of New Members – Michael Boyer / Brewster Knott**

New Board members Michael Boyer and Brewster Knott introduced themselves at this time.

## **V. Waterway Crime & Boating Safety Report**

Sergeant Travis O’Neil of the Fort Lauderdale Police Department’s Marine Unit reported the following activity from July and August 2022:

- 270 calls for service
- 5 boating accidents
- 3 boat burglaries
- 170 citations

Sgt. O’Neil advised that the burglaries occurred in the Rio Vista area.

## **VI. Presentation – Modification of Fort Lauderdale’s Seawall Regulations to Come into Compliance with the Broward County Tidal Barrier Model Ordinance / Dr. Nancy Gassman**

Dr. Nancy Gassman, Assistant Director of Public Works, explained that a set of changes and amendments have been proposed to the City’s Unified Land Development Regulations (ULDR) regarding what was previously referred to as the Seawall Ordinance.

The existing Seawall Ordinance was modified in 2016 to set the City’s minimum seawall elevation at 3.9 ft. It also recommended that the design of the seawall be supportive of future height adjustments of up to 5 ft. North American Vertical Datum (NAVD) 88, and allowed for the maximum height of a seawall and dock to be based upon the property’s base flood elevation. Key provisions within this Ordinance required homeowners to fully

reconstruct their seawalls to meet the new requirements if they met the City's threshold for substantial repair.

Owners are required to maintain their seawalls in a state of good repair in order to protect both their own and neighboring seawalls. Tidal waters must be prevented from entering either another person's property or the public right-of-way. Should an owner be cited for failure to meet the requirements of this Ordinance, a timeline of 365 days was established in which any issues must be remedied.

Since the Seawall Ordinance was enacted, the U.S. Army Corps of Engineers was engaged by Broward County in 2018 to conduct a flood risk management assessment. The outcome of this assessment was a County-wide tidal barrier standard, which will be incorporated into Broward County's Comprehensive Plan. All new seawalls, as well as those requiring substantial improvement, must meet a minimum top elevation of 5 ft. by the year 2050.

As part of this policy, the City of Fort Lauderdale is compelled to provide for a regionally consistent Ordinance. The Ordinance brought before the Board today will allow the City to come into compliance with the requirements of Broward County Land Use Code.

The 5 ft. elevation is based in part on the Unified Sea Level Rise projection as developed by the Southeast Florida Regional Climate Change Compact. This entity provides technical tools to municipalities to help them understand how to address and adjust to climate change. By the year 2070, it is expected that sea level will have risen within the range of 2.5 ft. to 4.6 ft. The required 5 ft. seawall elevation will help to protect upland properties and rights-of-way.

The 2016 Seawall Ordinance was included in ULDR Section 19.3, which addresses boat slips. In order to create a tidal barrier standard, the City has modified the definitions of the terms "mooring device" and "mooring structure" in this Section. All language related to the seawall elevation requirements has been removed from this Section, and the allowance for dock elevation has been changed from 10 in. to 12 in. above the associated tidal barrier or shoreline structure.

A new Code Section, 19.13, has been created to define resiliency standards for tidal flood protection. This new Section accomplishes the following:

- Establishes terms, phrases, definitions, and interpretations
- Extends elevation requirements not only to seawalls but to any type of tidal flood barrier
- Changes the top elevation requirement from 3.9 ft. to a minimum of 5 ft.
- Allows for structures permitted before January 2035 to be built at a 4 ft. elevation if their design permits a cap to be added to the structure to raise it to 5 ft. by 2050
- Establishes a maximum elevation for tidal barriers

Tidal structures built where there were previously none must provide habitat enhancement, such as riprap, at their waterward face, as Broward County Model Code encourages the incorporation of living shorelines wherever possible. Fort Lauderdale provides for a waiver from the top elevation requirement for waterward homes that have a lower finished floor elevation, and requires, per the County's model Ordinance, that there be disclosure at the time of sale if a house has a tidal barrier and whether or not that barrier meets requirements.

Should a seawall be cited or need substantial repair, a homeowner must upgrade or repair their seawall to the new elevation requirement. They will have 365 days to remedy a citation. Guidance is provided for both minimum and maximum elevations.

The proposed Ordinance was provided to Broward County for review. The County requested that additional language be added to the document to establish a clear time frame for a waiver. The County has found the proposed Ordinance to be substantially consistent with its policy mandating regional standards.

Next steps include presentation of the proposed Ordinance to the City's Planning and Zoning Board later in September, as well as a second presentation to the Council of Fort Lauderdale Civic Associations by that organization's request. Staff hopes to bring the Ordinance to first reading before the City Commission in approximately November 2022, with a second reading anticipated in December. The Ordinance would be implemented within 10 days of approval.

Mr. Boyer requested clarification that homeowners are not required to make any elevation adjustments to their seawalls in the absence of required repairs to over 50% of the totality of the structure. Dr. Gassman confirmed this is the case.

A/Chair Harrison asked if the Ordinance could result in uneven seawalls at different maximum heights depending upon the elevation of a house's foundation. Dr. Gassman explained that the Ordinance is not intended to create "giant seawall[s]": the intent of a maximum height is to prevent the creation of a canyon effect along the City's canal systems, visual blockage of views by neighboring properties, or problems with stormwater runoff.

A/Chair Harrison requested clarification of the ratio between the elevation of a home's foundation and the maximum height of a seawall. Dr. Gassman replied that the maximum is the base flood elevation of the property rather than the finished floor elevation.

A/Chair Harrison also requested clarification of the permitted elevation for fixed docks. Dr. Gassman stated that fixed docks will now be permitted to be 12 in. above the top elevation of the seawall. The height of docks is not intended to affect how water moves onto and from a property.

A/Chair Harrison observed that the proposed 365-day time frame is consistent with the typical time frame in which the permitting and work phases take place. He asked if there might be a provision suggesting that the property be under contract within this time frame rather than a requirement to complete the work. Dr. Gassman advised that the County incorporated this time frame from Fort Lauderdale's Ordinance into its own model Ordinance, which means the City may not vary from this time frame. She noted, however, that as long as reasonable progress is being made toward the required seawall improvements, the City may grant extensions for the construction phase.

Mr. Franks observed that one major cause of flooding is the combination of high tides and rain events. He asked if there might be a way for the City, or a neighboring property owner, to provide financial assistance to a homeowner who is raising their seawall. Dr. Gassman replied that it is exclusively a homeowner's responsibility to protect the perimeter of their property. If a property is not consistent with City Code, it can be cited in order to prevent the creation of a nuisance situation in the community. Seawalls are seen as similar to fences, roofs, or any other aspect of private property that must be maintained in good condition.

Mr. Franks also addressed sea level rise, noting that several factors affect projections of this increase. He recommended that there be language clarifying that the expected sea level rise is a projection and may not be consistent with the actual rise, so actions can be based on reality rather than projections. Dr. Gassman explained that the Southeast Florida Regional Climate Change Compact updates its projections every four years, seeking input from local academic and regulatory experts who can help determine which projections are the most applicable to the area. These individuals will use the most recent scientific literature available to assist in these calculations.

With regard to consistency with actual sea level rise rather than projected rise, Dr. Gassman pointed out that in the last three years, the highest tide the City has experienced is 2.65 ft. Many existing seawalls are built to a height of less than 2 ft. Sea level continues to rise, and the infrastructure required to address this rise is meant to have a useful life of 30 to 50 years. The 2.65 ft. high tide is sufficient reason to compel homeowners to build new seawalls to a higher standard.

Mr. Franks requested clarification of the plan for improving City seawalls. Dr. Gassman recalled that in 2017, the City developed a Seawall Master Plan for the City's five miles of seawall, noting that this is a very small portion of the overall 165 miles of waterways in Fort Lauderdale. To date, the City has made over 0.5 mile of improvements. The City is following the recommendations of the Seawall Master Plan and prioritizing seawalls going forward by providing erosion prevention devices as well as tidal barriers.

Mr. McLaughlin commented that he would like to see the City adopt a standard for the use of sheet piles close to bedrock. He was not in favor of the use of panel walls instead of sheet piles. Dr. Gassman stated that a sheet pile seawall, driven to an appropriate depth and topped with concrete to an elevation of 5 ft., is the City's engineering

standard for all new seawalls. While this may not be possible in all locations, it is the standard for City-owned seawalls.

Mr. McLaughlin continued that he would also like to see the City require seawalls in all areas rather than the natural berms that exist in some locations. Dr. Gassman replied that one goal of the proposed Ordinance is to ensure that a seawall is not the only solution: a homeowner can achieve sufficient protection using a number of different types of tidal barriers. She added that at present, tidal impacts on inland properties are less severe than in coastal zones, which means properties without seawalls are not experiencing the tidal flooding associated with sea level rise. The Ordinance is intended to allow rising seas to dictate where it must be enforced.

**Motion** made by Mr. McLaughlin, seconded by Mr. Franks, to make a motion to support. In a voice vote, the **motion** passed unanimously.

**VII. Dock Waiver – 2631 NE 12 Street / Richard Peacey & Katalin Van Den Hurk**

Richard Peacey, Applicant, explained that his dock was upgraded in 2019 and the inspection completed in 2020. He now proposed a new dock, with triple cluster pilings at 48 ft. 8 in., to accommodate a larger boat. Notice of tonight's meeting was sent to the 18 residences within 300 ft. of the subject property.

Mr. Flanigan noted that the Board had received one letter in opposition to the Application.

Mr. Franks asked if any of the Applicant's neighbors had expressed concern or complaints about maneuvering in the area. Mr. Peacey replied that they had not. He advised that he planned to purchase a large vessel and planned to put a new set of triple cluster pilings in the water to keep the boat away from the seawall in inclement weather.

A/Chair Harrison asked if the Applicant's immediate neighbor to the east would be "pinched" by the addition of larger boats on the Applicant's property. Mr. Peacey stated that he already docks a boat beside this property.

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

Tyler Chappelle, private citizen, advised that he was pleased to see neighbors in the area had resolved any issues related to previous dock waiver requests.

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

Mr. Flanigan requested clarification of the beam of the boat the Applicant plans to purchase. Mr. Peacey estimated it is 16 to 18 ft. The length of the boat to be purchased is 55 ft.

**Motion** made by Mr. Franks, seconded by Mr. Flanigan, to approve. In a roll call vote, the **motion** passed unanimously (8-0).

**VIII. Water Taxi License – Staying Afloat Party Boat LLC / Andrew Cohen & Michael McClay**

A/Chair Harrison noted that this Item was tabled.

**IX. Dock Waiver – 10 Hendricks Isle / Yuda Gariplerden, Hendricks Group, LLC**

Jena Robbins, representing the Applicant, reviewed the location of the subject property, which has roughly 14 existing slips that are perpendicular to the shoreline. Similar mooring is used at other properties in the surrounding neighborhood. There is a 250 linear ft. seawall along the length of the subject property, with a wooden marginal dock and eight wooden finger piers to accommodate the 14 slips.

The proposed project would remove the wooden docks and install a new seawall in front of the old one. It would also include eight concrete finger piers, 20 ft. in length and 4 ft. wide, as well as 30 mooring piles, 15 of which would be directly at the end of the finger piers and 15 of which would be approximately another 10.5 ft. waterward. Ms. Robbins showed multiple views of the property and plans.

Ms. Robbins continued that the vessels at the property vary in length from 40 to 59 ft. With the width of the marginal dock estimated at 5 to 8 ft., the vessels will extend 48 to 64 ft. into the waterway. The waterway in this location is roughly 160 ft. wide. With the proposed finger piers and mooring piles, the result is a reduction of approximately 30% in slip length. The slips will not exceed 30% of the width of the waterway. The Applicant requests a waiver for 15 of the 30 mooring piles, which extend approximately 35 ft. from the property line rather than the 25 ft. required by Code.

The mooring piles are necessary to safely moor vessels at the 14 slips, particularly during high wind events or excessive wakes from boats on the waterway. The proposed project is similar to others for which waivers have been granted in the surrounding neighborhood, which range from 35 ft. to 80 ft. from their property lines. The Applicant has received no letters of objection from neighbors.

Mr. McLaughlin requested clarification of the use of an extra pile at the end of the dock. Ms. Robbins replied that this is one of the mooring piles. She added that the property's seawall is being raised to a height of 5 ft. The longest boat that will be docked on the property is 45 ft. in length. Mr. McLaughlin commented that this would be nearly the

maximum length that could be docked on the property without exceeding the 30% limitation.

Mr. Flanigan asked if the subject property will have a homeowners' association. Ms. Robbins replied that the property is a 16-unit condominium which has received Site Plan approval. She was not certain of whether or not a homeowners' association will be part of the development.

Mr. Flanigan also asked if there is any language that would restrict units from docking boats longer than 45 ft. on the property, other than the City's 30% limit. Ms. Robbins replied that this will be up to the homeowners' association if there is one; however, the environmental permits required for the site will also limit extension into the waterway. The site includes an existing property which is being redeveloped. The slips will be owned by the condominium unit owners.

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

**Motion** made by Mr. Flanigan, seconded by Mr. Franks, to approve. In a roll call vote, the **motion** passed unanimously (8-0).

#### **X. Proposal to Operate a Floating Business / Rahn Bahia Mar LLC**

Robert Lochrie, representing Rahn Bahia Mar LLC, showed a PowerPoint presentation to the Board, stating that the proposal is to use a floating vessel as a business. Presentation to the Marine Advisory Board is a prerequisite to a request for approval before the City Commission.

A portion of this overall project has previously been approved and is currently under construction. This marine village will be located at the southeast end of the site. The village will include food and beverage kiosks, retail, and a large promenade along A1A facing the waterway. It will be open to both the public and guests at Bahia Mar. A landscape buffer will separate A1A from the pedestrian area, and a wide sidewalk will be built on the site.

The proposal before the Board is the inclusion of a former auto/pedestrian ferry, which previously existed at Fisher Island. The vessel has been retired and is undergoing renovation and system upgrades. It will be incorporated into the marine village as an additional amenity for Bahia Mar and the public.

The vessel will be located outside any navigable waterway and will have no impact on the channel. It will include two levels with views across the marina as well as toward the beach.



Mr. McLaughlin requested clarification of the vessel's wastewater connection. Mr. Lochrie replied that this will be a hard connection from the vessel to the sewer line along the marine village. The vessel will include holding tanks but no "pumping out in the traditional way" is planned. It will meet all local Codes and Ordinances. There will be restrooms both on the boat and near the ticket offices.

A/Chair Harrison asked if there is a plan for periodic maintenance of the boat. Mr. Lochrie confirmed this, stating that the vessel will continue to be regulated by the U.S. Coast Guard, although it may be decommissioned over time. While it is currently being renovated outside the City, there are boatyards in Fort Lauderdale and Miami that are capable of servicing the boat if necessary.

Mr. Boyer asked if the vessel would remain in place in the event of a storm, or if it would be removed. It was clarified that the boat would remain on-site.

Mr. Franks asked what would happen to charter boats formerly docked in the subject area. Mr. Lochrie replied that these have been moved to the north side of the site while the south side is under construction. Plans for the site include a new ticket office and facility for the *Jungle Queen*. Mr. Franks emphasized the ongoing importance of charter boats to the City and its history.

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

**Motion** made by Mr. Flanigan, seconded by Mr. McLaughlin, to approve. In a roll call vote, the **motion** passed unanimously (8-0).

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

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Mr. Flanigan recalled that in the past, the Board discussed the illegal use of City facilities by charter companies to pick up and drop off customers. He described this practice as out of control, particularly on weekends. The use of City floating docks by commercial vessels violates the Broward County grant program that paid for these docks, and could affect future grants. He also noted that the City is not named in these vessels' insurance policies.

Mr. Flanigan advised that the City could take actions such as implementing a boarding fee, requiring proper insurance, monitoring the activity, or receiving revenue. He felt this issue should be brought to the attention of the City Manager for review and direction. He requested a full discussion of this issue at a subsequent meeting.

Mr. Flanigan showed photographs of the activity he had described at various City facilities.

Mr. McLaughlin noted that vessels at these docks are restricted to 26 ft. or less in length, and added that a commercial entity has previously come before the Board to request use of City docks for customer access. The Board had denied the request due to the stipulation mentioned earlier.

Mr. Flanigan stated that while the City has recently taken some steps to restrict commercial activity at docks, this still occurs regularly on weekends. A/Chair Harrison expressed concern that some of the vessels shown in the photos may not be properly licensed or insured. He also pointed out that this unauthorized use of docks could generate income for the City if it were legitimized and regulated.

Mr. Cuba stated that he would speak with Chair Ted Morley regarding the placement of this issue on the next Board Agenda. He recommended that the Board members come to the next meeting prepared with ideas that can be consolidated into a communication to the City Commission.

Sgt. O'Neil advised that in order for the Marine Unit to enforce City regulations against commercial use of City docks, they must see the vessels picking up passengers, at which time they may issue a trespass warning to the operator of the vessel. The first warning is only effective for one day, with lengths of time escalating for subsequent offenses. This makes it difficult to ensure regulations are followed.

Mr. Franks added that these boats may be contributing to garbage in the waterways, particularly on the weekends. He also expressed concern for where these boats pump out waste.

## **XII. Adjournment**

There being no further business to come before the Board at this time, the meeting was adjourned at 7:29 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.]