

CITY OF CORAL GABLES
WATERWAY ADVISORY BOARD
 HYBRID MEETING AT CITY HALL/ZOOM
 WEDNESDAY, DECEMBER 7, 2022 - 5:30 P.M.
 MEETING MINUTES

MEMBERS	District	J	F	M	A	M	J	J	A	S	O	N	D	APPOINTED BY:
		22	22	22	22	22	22	22	22	22	22	22	22	
Manny Chamizo	2	*-	P	P	A	A	*	*	*	P	*	*	P	Vince Lago
Daniel Tormo	3	*-	P	P	P	P	*	*	*	P	*	*	P	Jorge L. Fors
Juan A. Galan Jr	3	*-	P	P	P	P	*	*	*	A	*	*	P	Rhonda Anderson
Alex Stancioff	1	*-	P	P	A	P	*	*	*	P	*	*	A	Kirk Menendez
Joel Kallan	4	*-	-	-	-	P	*	*	*	P	*	*	P	Michael Mena
Douglas Yoder	CR	*-	P	P	P	P	*	*	*	P	*	*	P	Peter Iglesias
Bertram Goldsmith	7	*-	P	P	P	P	*	*	*	P	*	*	E	Commission-As-A-Whole
John Swain	2	*-	P	P	P	P	*	*	*	P	*	*	P	Commission-As-A-Whole
Andria Codina Miyares	6	*-	P	P	P	A	*	*	*	R	*	*	R	Board-As-A-Whole

P – Present
 P* - Present (zoom)
 E – Excused Absence
 A – Absent
 R – Resigned
 (-) – No Appointment
 (*) – No Meeting

STAFF:

- Jorge Acevedo, Utilities & ROW Division Chief/Board Secretary
- Lorena Garrido, Administrative & Fiscal Affairs Manager
- Jessie Acebo, Administrative Assistant
- Sergeant Guido Antezana, Marine Patrol

GUESTS:

- Gus Ceballos, Assistant City Attorney

CALL TO ORDER:

The meeting was called to order at 5:28 p.m. by the Board’s Chair, Mr. Chamizo. The roll call was done and quorum was met. Mr. Goldsmith was excused.

MEETING MINUTES APPROVAL:

Corrections to the September 7, 2022 meeting minutes were made specifically where it stated “*Dr. Kallan inquired about adding cameras to bridges and shared an email from the previous administration stating there were funds available.*” This was edited to reflect that Mr. Swain made this comment. *Mr. Kallan made the motion to approve the September 7, 2022 corrected minutes, seconded by Mr. Chamizo, all were in favor.*

DISCUSSIONS:

Regarding the September 7th minutes, Mr. Swain added that he emailed Chief Hudak correspondence with the previous City Manager, Cathy Swanson where she promised the installation of cameras. He said he hasn’t heard back from the Chief yet. Mr. Swain also mentioned he would forward this same correspondence to the City Manager.

Mr. Chamizo stated the Board as-a-whole vacancy is still pending and Mr. Meyer has applied to fill this vacancy. Mr. Meyer was present and introduced himself.

Dr. Kallan made the motion to accept Mr. Meyer as the Board as-a-whole appointment, Mr. Chamizo seconded the motion and all were in favor. The recommendation will be taken to the next City Commission meeting to confirm the Board’s motion.

Mr. Acevedo reported that Board member, Mr. Stancioff, emailed to recommend Mr. Ritzenthaler as his replacement to the Board. His information will be shared with Commissioner Menendez for consideration. Mr. Ritzenthaler was also present.

NEW BUSINESS:

Discussion by Assistant City Attorney regarding:

- a. Legality of renting dock space in private homes.**
- b. Board review and recommendations on permits for docks and other structures in the waterways.**

Mr. Ceballos stated he is present to answer the Board’s questions regarding: the legality of renting dock space in private homes. He responded no, you cannot rent. No boat can be moored on a dock, on a property that does not belong to the property owner, lessee or guest. This is as per City Code.

Mr. Chamizo inquired if the University Inn was an exception as they have a special permit. Mr. Ceballos said if they have a private yacht basin approval, its different. Mr. Swain added they have a marina. Mr. Ceballos added if a there’s a private yacht basin or marina tied to a property, then that’s ok.

Mr. Yoder asked if a property owner leases their property, do they lose their right to have their boat there. Mr. Ceballos responded that one could argue that. The person who has possession of the property has the right to use the dock. Mr. Yoder added that this may be the case unless

there's a provision to the lease. Mr. Ceballos stated that this may be a unique circumstance but may be determined by looking into the fact pattern, applicable laws and seeing how this may have been interpreted in the past, in order to provide an actual opinion. Mr. Kaplan stated that the question initially was if the dock can be leased separately from the house. Mr. Ceballos responded no.

Mr. Yoder asked if the property owner does not have a boat but has a relative or friend with a boat and there's no lease, can a boat remain under these circumstances. Mr. Ceballos stated that under the current City Code this would not be allowed.

Mr. Chamizo asked about vessels that are not navigable. What does the City Code state regarding this? Mr. Ceballos responded he would have to review what the navigable requirements are as per City Code.

Mr. Galan inquired how does the City enforce the dock's lessee situation, discussed above. Mr. Ceballos responded that enforceability is a challenge however the Marine Patrol can go through and confirm if the boat is registered to the address in question. If it's not, they can send Code Enforcement to request the lease or other type of information to confirm compliance

Mr. Chamizo inquired why would this be Code and not the Marine Patrol. If a particular vessel is not registered at a particular home, it should be policing function. Mr. Galan added that Code Enforcement has this function with the City Code and they have authority. He said the question is why can't Marine Patrol feed the information to Code Enforcement since they already do this by taking them out on waterway inspections once in a while. Mr. Ceballos commented that both, Code Enforcement and the Marine Patrol have enforcement powers. Code Enforcement handles any citations or violations. The Code Enforcement Officer does not need to see the issue so Police can document the information and relate it to them to issue the citation. As long there's an officer that can confirm and testify to whatever the violation may be, that's sufficient.

Sgt. Antezana was asked to comment as the Marine Patrol navigates the waterways and are familiar with the boats seen along the waterways. Sgt. Antezana stated they have a good idea of which boats belong to homes on the waterway. However, they can't determine which ones may be leased or who lives in each home or has property rights. If there's a complaint, they can run the "FL" numbers. Mr. Yoder commented that if a vessel doesn't have a current registration, it would this be a violation of State Law. Sgt. Antezana said if the vessel is "under way", yes but would have look into this if it's moored on private property.

Mr. Swain asked if there's a limit to the number of boats a property can have. Mr. Ceballos stated he would have to confirm if there's a limit but said boats cannot exceed the bounds of their owner's property unless there's some kind of agreement with the abutting property owner that can be presented to the City.

Mr. Galan commented that on the Gables Waterway, on Edgewater and the building next to it, have docks and he's not sure if these are owned by those that own condos on that property or if the docks themselves may be sold as separate facilities. He stated there's been issues with a

number of properties where they have been leased to conduct commercial activities. This has been difficult to prove and to get them to stop these activities. He added that now since there's knowledge that this can't be done, those that lease properties can be advised that the only boat that can be moored, is the owner's or lessee's.

Dr. Kallan inquired about enforcement jurisdiction relating to the back of properties when mangroves overgrow the dock, boat, canal and obstruct the neighbor. Mr. Ceballos responded by saying it's Code Enforcement.

Mr. Galan asked if the Marine Patrol could provide a report on all the houses that have overgrown mangroves for Code Enforcement to take action. Mr. Chamizo stated this is obvious by looking at Google Earth. Mr. Galan said Code Enforcement would need this by the Marine Patrol, which could do this on a regular basis, by taking segments of the waterway and provide to Code. Sgt. Antezana added this is not their function, but they don't have a problem in doing so as they already take Code Enforcement on waterways ride-along. If Code Enforcement sees a violation, they can start the citation process and if they see something that's egregious, they can inform Code. Mr. Chamizo inquired when the next waterway ride-along will take place to participate. Sgt. Antezana stated that is should be coming up soon. Mr. Chamizo requested for one to be scheduled in January 2023.

Mr. Acevedo added that Public Works has a part-time Waterway Coordinator who also performs regular waterway inspections and provides Code Enforcement with the items needing enforcement.

Mr. Galan asked if property owners are cited for overgrown mangroves can the City cut the mangroves and place a lien on the property. Mr. Ceballos stated he is not aware of this process but legally speaking he doesn't see an issue. He added this can be a special assessment lien. He further added this would be a process issue and business decision, as far as the City wanting to undertake mangrove trimming and get applicable DERM approvals. Mr. Acevedo stated that for mangrove trimming, there is a process that needs Miami-Dade County-DERM approval, which is the main obstacle.

Mr. Galan stated the real question is how do we take ownership and how do we begin to require that the existing City Code is enforced along the waterways. He added that overgrown grass and trees are not allowed, and someone is handling these issues so how can this be done for the waterways. Is this something this Board needs to handle or should have the City designate someone to do so. He suggested informing the City Manager of the waterway enforcement issues for assistance. He also stated that when it comes to docks and boat lifts approvals, this Board is not made aware of them.

He provided an example of a notice he received regarding a property requesting a 45' extension from the property line for a boat. He mentioned he called the number on the notice to ask how was this approved without notifying the Board. He also said it seems the City has different divisions who handle docks and the other lifts, which in his opinion should not be. Mr. Yoder commented for the Board to be involved in such approval process, the Board's ordinance would

need to be amended. He added that maybe there could be a provision that would allow the Board to comment on waterway related pending applications. Mr. Ceballos stated if the Board is part of the review process, the Code would have to change. The Board may receive a list of approved waterway related encroachments for review only, without changing the Code. He further added if the Board wants to be integrated as part of the process, the Board will need to become a quasi-judicial and change the creation and purpose of the Waterway Advisory Board. Mr. Ceballos informed that quasi-judicial boards require some level of expertise for example the Board of Architects, must be architects.

Mr. Galan expressed the Board should be able to comment on variances related to the waterways, such as the one previously mentioned. He suggested meeting with the correct City staff to address the Board's concerns as they have been unable to get control over overgrown mangroves and boats that shouldn't be on the waterways. Further, he would like for the City to take ownership so the back of waterway homes look like the front.

Dr. Kallan motioned to invite the City Manager to the next Board meeting to discuss the Board's concerns. The motion was seconded by Mr. Chamizo and all were in favor.

Mr. Yoder stated the Board seems to be in a position where recommendations can be made about what standards to enforce relating to various waterway activities. If the different City divisions are dealing with lifts and docks and their Code requirement and enforcement are in conflict, the Board should recommend for this to be looked into.

Mr. Ceballos clarified the permit process for mooring permit:

- Staff approves based on the requirements of the Code;
- If requests are outside the Code, a variance is requested;
- Variances then go to the Board of Adjustment for review and they are told which is the applicable Code. This allows them to have standards for comparison.

The Board discussed they should be notified to comment on such variances relating to the waterways. Mr. Ceballos stated that "notice" and "comment" are (2) separate things: to be "notified", the Board could remain as is but to "comment," the Board would have to change to quasi-judicial.

Mr. Galan made a motion for the Waterway Advisory Board to be the decision-making board of all variances on the City waterway. Mr. Chamizo seconded the motion and all were in favor.

Mr. Galan inquired if the City has a way of notifying waterway properties of the clarification by Mr. Ceballos regarding the leasing docks not being allowed. He feels it's a good idea to educate waterway property owners. City staff will look into this.

MARINE PATROL REPORT:

Sgt. Antezana reported on (2) incidents on the waterway which individuals climbed on to several boats on Edgewater.

ADJOURNMENT:

The meeting adjourned at 6:42 PM

NEXT MEETING:

Wednesday, January 4th, 2023 at 5:30 p.m.