

**MINUTES OF THE
HARBOR AND WATERWAYS BOARD MEETING
DESTIN CITY HALL, MAY 23, 2022 - 5:00 P.M.**

1. CALL TO ORDER:

Chairman Hoey called the Destin Harbor and Waterways Board meeting to order at approximately 5:00 p.m. on Monday, May 23, 2022, at Destin City Hall, with the Pledge of Allegiance immediately following.

2. ROLL CALL:

Member Present:

Richard Hoey
Guy Tadlock
John Stephens
Bill McKissick
Casey Jones
Jim Green

Members Absent

Harvey Hurst

Staff:

Kim Montgomery Deputy City Clerk
Steve O'Connor
Louis Zunguze
Kyle Bauman City Attorney

3. APPROVAL OF MINUTES:

➤ **April 25, 2022**

Motion by Board member Tadlock, seconded by Board member Stephens to approve the April 25, 2022 minutes as corrected.

4. PUBLIC COMMENTS:

None

5. NEW BUSINESS:

A) Proposed Residential Marine Construction Project at 132 Country Club Drive W.

According to Mr. O'Connor, it is his understanding that the board, at the meeting last month motioned to table this item due to lack of what appeared to be state exemption for this project. However, the email that was included from the State clearly says the project is exempt from state review. He then informed the members that staff also included a couple of pamphlets in their packet for this month that talks of the exemption specifically for living shoreline conditions. Additionally, the request is less than 500-linear feet and a seawall is not required for any sort of self-certification or state review, so long as it meets the criteria as outlined. Therefore, staff has brought the project request back due the fact that an email from the state was originally provided and suffices as State's submittal.

Mr. Zunguze reminded the Chairman and the members they cannot withhold their recommendation based on no permits from the State and staff does have final say at the time the

building permit is applied for to demand any necessary state approvals before a permit is issued to start construction.

Motion by Board member Jones that the Harbor and Waterways Board recommends the City Council approve the single-family marine construction project located, 132 Country Club Drive West subject to the applicant meeting all applicable city permit requirements. With Vice Chair Green providing the second. There was a lengthy discussion regarding how the Code has not been changed to the way the process is now handled with the exemption receipts for those that get self-certified from the FDEP. The Chairman spoke of how he feels that for the protection of the applicant, they should always go online and obtain the permit and have the necessary receipts for their file.

Mr. O'Connor explained that both the FDEP and the ACOE do not review exempted projects and the same goes for the city. If there is an exemption, there are no State permits issued saying its exempt, but it is and is reflected in the file like this one was with the email.

With no further discussion, the motion passed 6-0.

6. PUBLIC COMMENT:

None

7. BOARD MEMBER COMMENTS:

➤ **Committee member Tadlock**

Reported that he has seen several locations in the harbor where there are canvas covers over boat slips and spoke of how he is certain that none have gotten approval and questioned if they have been permitted and are they counted in the square footage of the docks or are they exempt.

Mr. O'Connor stated that without knowing the address, there is no way to be able to tell if it was permitted or not. Additionally, if someone were to submit a marine construction permit to cover an existing boat slip that did not originally have a covering on it, it would currently be allowed, noting that will change if the marina siting ordinance is approved. Once the marina siting is updated, it would have to be included in 1,000 square feet. Additionally, staff is following the Florida Self-Certification and, as part of this Board's and LPA's recommendation, a request would be a staff level approval as long as the request is not beyond self-certification requirements. However, if it is a residential dock for 3-9 slips, it comes to this board. If it's a commercial dock it comes to this board. In review are the following categories for review:

- Category 1, self-certification. If the applicant can self-certify, per the proposed ordinance for the new marina siting, this would stay at staff level approval.
- Category, 2 is residential dock that is not self-certifiable comes to this board and goes on to City Council for approval.

- Category 3 is for any commercial dock requests comes before the board and goes on to City Council for approval.

Board member Tadlock spoke of his concerns regarding self-certification based on everything being precise and how that is not always the case. Similar to the project they reviewed in February where the owner self-certified they owned the uplands in which case they do not, the County does, and how he believes they will be well past the 1,000 sq. ft. and all three are exempt docks.

Mr. O'Connor asked the members that if there's a different direction they would like to give staff on how to handle these situations. Explaining that if somebody comes through for a residential marine construction permit with a self-certification, and it's approved, then they submit for their marine construction permit and staff reviews it again. Accordingly, if the square footage of the self-certification does not match the marine construction permit, then it will not get approved.

Board member Tadlock spoke of the old marinas in the harbor that had the metal coverings and are considered grandfathered in. With those being at the end of their life for the structures, and potentially do not have submerged land leases attached because of their age, he asked what the plan is if one comes in for replacement or rebuild.

According to Mr. O'Connor, the term legal nonconforming structures commonly referred to as grandfather rights, and that term, legal non-conformity requires that at some point the structure existed in its current state, either through an approved mechanism by a prior jurisdiction establishing rights and a police power (the ability to enforce powers). Therefore, they are likely grandfathered in, and grandfathered rights exist in perpetuity until the physical dimensions change and/or the structure is destroyed by an act of God for up to 50% of the replacement cost at time of destruction. Additionally, the structure must be replaced within 6-months of destruction, or it loses all of the grandfathering rights per the code, which applies to anything and everything that has a legal non-conformity, or otherwise known as a grandfather rights.

Regarding the 25-foot setbacks, this is not a requirement if the adjacent property owners give permission, and it is only from the property line, not the right riparian line. So, essentially, somebody could go 25-feet from the property line along the high water line mark 25-feet out and then 25-feet over back to the riparian line and up, 25-feet from the property line, not the riparian line. Also, the approval from the adjacent property owner needs only to be an email, a letter or verbally at the public hearing. Additionally, legal non-conformities cannot be replaced board for board, specifically legal non-conforming docks. They cannot be replaced board for board, 100%, because there is only a certain percentage each year based on the cost of construction that it can be replaced. Therefore, if a dock falls into such disrepair that it needs to be replaced 100%, then it must come into compliance with the current code. Legal nonconformity can exist in perpetuity, they just cannot increase the nonconformity, but can decrease a nonconformity.

➤ **Chairman Hoey – Harbor Capacity Study Update**

Mr. Zunguze explained the heavy work for the study will be taking place until the Labor Day Holiday with the study scheduled to be complete by November. After the reports have been sent to the Harbor Capacity Study Committee for their review, they will make their recommendation to City Council.

**** Board member Jones left the meeting****

➤ **Vice Chairman Green**

Spoke of the need to have an oil disposal center in the city since Time Saver is no longer in business and was the only location listed by the county in the city. He mentioned the other two locations in the city that do take it but will only take five gallons at a time. He spoke of how he currently is storing his used motor oil in his personal storage unit because he has no where else to dump it. He also spoke of state grant programs through the County that could be applied for to help offset the costs of creating and staffing the drop off area.

Vice Chairman Green motioned for city council to instruct staff to research grant opportunities and look for a manned city property location for waste motor oil collection site to be built for small businesses and citizens. Committee member Stephens provided the second. There was a brief discussion about water quality and how important it is, as well as the opportunity for a possible future revenue opportunity for the city to have the collected waste oil recycled. **The motion passed 5-0.**

➤ **Board member Stephens** - Questioned the requirements for better drawing submittals for projects. Mr. O'Connor explained that when the applicant applies for their marine construction permit, engineered drawings are required however, this board has previously agreed that they want to make the process as easy as possible for applicant's projects that are not commercial in nature.

➤ **Board member McKissick** - Questioned the definition of a boat slip and how they're dealt when they're used for numerous jet skis instead of one boat.

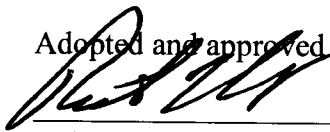
Mr. O'Connor explained to the Board members that the number of slips usage is based the density of the property and the parking requirements.

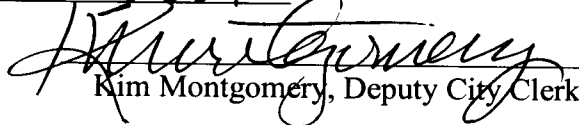
There was a discussion about the transient slips the commercial project that came before them at their last meeting and what exactly is considered transient. According to Mr. O'Connor, those transient slips are for the public use only and not meant for commercial use.

8. ADJOURNMENT:

With there being no further discussion, the meeting adjourned at 6:30 p.m.

Adopted and approved this 8th day of August 2022.


Richard Hoey, Chairman


Kim Montgomery, Deputy City Clerk