

WHAT IS ALL THE DEP DRAMA?

Editorial by Janet Edwards

There is a buzz around the neighborhood about the DEP, docks, and how much it has cost in legal fees dealing with these issues. I do not fully understand everything but I will hit the “rooftops” to help everyone wrap their brains around what's going on with the least effort possible. If my info is incorrect, please fill out the Contact Us section of the website and I will amend. We now have four docks in North River Shores.

When a dock is built, there are certain permits you must have before construction begins. Sometimes you need a DEP permit since it involves the water, wetlands, and possible wildlife - before you apply to Martin County. MC won't approve until DEP does.

You can click on the DEP link under “Helpful References” to read for yourself but it is my understanding that in general, single docks built under 1000 sq ft in canals are exempt from a DEP permit. Exempt - so as I understand it, if you build a single dock under 1000 sq ft, in most cases, you don't need to even apply for a DEP permit.

If A LOT of this is completely AVOIDABLE, why is our POA paying legal fees for DEP hearings? And why is it over ~\$50k? Who is responsible?

Starting with the boat ramp dock: The original boat ramp dock was approximately 280 square feet. The replacement docks total approximately 1,132 square feet - more than four times the original footprint. I'm guessing DEP first approved the exemption since MC approved a permit, then DEP later identified noncompliance involving the total area and two-dock configuration. Combining the DEP noncompliance with the king tide submersion for a 300% larger dock, it would seem logical that risk and liability would increase. Board members have acknowledged at association meetings that liability insurance costs have increased substantially, reportedly several times the former level. I would guess that it would cost significantly less to remove a section to make it under 1000 sq ft than pay a lawyer. But the two docks may still be an issue. Lawyers may have to be utilized to get a compliance ruling now. That could be expensive.

Better planning, consulting experts, and knowledge of DEP exempt qualifications could have avoided these issues. But how the Board is going to resolve the DEP compliance issue is unknown. The Board made a Facebook post rationalizing their decision to build new docks that submerge at king tides but at the least, the ramp should be roped off when submerged for everyone's protection. See the “Boat Ramp Dock” on Neighbor Perspectives to see the submerged new build and link to king tides info from Martin County. Sorry, that got long. So much to say. Please hang in there.

Please see the Department's response to your question below in red.

I wanted to ask for a status update on our neighborhood's already constructed boat ramp docks permit. The site ID is ERP-458411 and I see the application was just submitted 7/14/2026. Since the previous exemption was found insufficient after a site inspection and the general permit application was withdrawn would it be accurate to say we currently do not have any state permit as of now?

- At this time, the Department has not issued a permit for the project.
- The Department's permit file for this project is available online at: https://prodenv.dep.state.fl.us/DepNexus/public/electronic-documents/ERP_458411/

Lake Park dock: It appears to me that this dock needed a few nails and a pressure wash, maybe even a protective coating, but the Board decided to put a plan in place to pull pilings and start over. Some residents found this to be a wasteful use of POA funds and an unnecessary disruption of marine life and vegetation. It is my impression that when the concerns were ignored by the Board, a resident filed a complaint with the DEP in an attempt to prevent the disruption of aquatic life and potential for mooring. Some feared the Board would alter plans after permit approval as they have done before and build something for their own agenda. See the photo below of the condition of the dock. Looks pretty good to me.



Again, the Board had options to save money but decided to hire a lawyer instead. They could have announced the project to the POA members, requested input, and conducted a member vote. Perhaps the members would have voted to replace the dock or they could have voted for refurbishing. But rather than talk to residents, the Board hired a lawyer from Jacksonville, FL to defend this complaint. This alone breaks a few bylaws.

SECTION 5.

The Legal Committee or Advisor shall be responsible for providing legal interpretations as requested by the Board of Directors. The Committee or Advisor shall work in conjunction with the Restrictive Covenants Committee in the enforcement program, collaborate with other committees, and outside counsel, as necessary, concerning legal matters. The Board shall not engage in any litigation, other than the enforcement of existing Deed Restrictions, or the enforcement of contracts with outside contractors or suppliers, without the specific approval of 2/3 of the ballots, proxies, or absentee ballots cast by the members at a special meeting requiring a super quorum as hereinbefore defined.

SECTION 8.

Should it become necessary to seek engineering, legal, financial or other professional advice, the Board of Directors shall establish a local architect, attorney, accountant or other professional with whom the committees may work.

According to the bylaws, the Board is only allowed to consult lawyers for contracts and deed restrictions issues, otherwise they have to have member approval with a vote of 2/3 of a super quorum. The bylaws also specify that if a lawyer is needed, it is to be local. But the Board stated that they paid their nonlocal Jacksonville lawyer, John Wallace, \$34,000, when the complainant represented himself. Was a lawyer necessary? Was a hearing necessary? I don't think so.

North Shore Park dock: This project started in secrecy and proceeded despite objections from the community with serious questions about its necessity, cost, and impact on surrounding homes. Why did the Board prioritize the project without first addressing those concerns? What was their true motive? All NRS residents already had access to water at three other parks. Again, the Board had options to avoid legal fees and chose to bring a lawyer in on the issue.

- 1) They could have announced the project to POA members, requested input, and held a member vote. The community may have wanted security cameras instead of another dock. We could have possibly funded a security patrol for weekend nights or even purchased gift cards to motivate members to participate in Neighborhood Watch.
- 2) They could have sought input from the surrounding homeowners before approving a project that directly affects their property values, and privacy. Section 5 of our restrictive covenants already recognizes the importance of neighboring property owners when certain deed restrictions are released. Why wasn't that same consideration given to the families living directly beside this community dock?
- 3) They could have built a dock with a modest footprint that could actually be used for kayaking that would minimize the invasion of privacy for the neighbors.
- 4) They could have considered whether a qualified nonattorney representative could handle some or all of the administrative proceedings instead of incurring substantial legal fees hiring a lawyer, especially since the DEP lawyer defended their decision like a bulldog during the hearing, all by herself. Instead, by their own admission, the board chose to pay \$28,000 in legal fees to answer this complaint.

When a Board refuses to take member input and doesn't make sound business decisions, members have to find other means to get them to listen. Civility dictates that a lawsuit is the next step. Listening and civil discourse would be much cheaper than hiring a lawyer. Tim Newton, who was the Board President at the time, acknowledged that he didn't have any problem hiring lawyers, because he stated, "It's not coming out of my pockets". Why does this matter to all residents? This takes money from reserves and increases our annual dues leaving our POA without funds for social events, contingencies, and damage from extreme weather. Those legal fees were avoidable. Why didn't the Board avoid them? Why would we vote for more of this?