

San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190

State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

Agenda Item #11

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TO: Commissioners and Alternates

FROM: Lawrence J. Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)
Marc Zeppetello, Chief Counsel (415/352-3655; marc.zeppetello@bcdc.ca.gov)
Brad McCrea, Director of Regulatory Programs (415/352-3615; brad.mccrea@bcdc.ca.gov)

SUBJECT: Proposed Galilee Harbor Settlement Agreement; Third Amendment
(For Commission consideration on April 16, 2020)

Summary and Recommendation

This report summarizes the proposed Third Amendment to the Galilee Harbor Settlement Agreement (“Settlement Agreement”) between the San Francisco Bay Conservation and Development Commission (Commission or BCD) and the Galilee Harbor Community Association (GHCA), which would authorize GHCA to temporarily close and remove for up to two years a small public access boat dock, also known as a small craft launching float, that is currently authorized and required in the Settlement Agreement.

Staff recommends that the Commission approve and authorize the Executive Director to execute this Third Amendment to the Galilee Harbor Settlement Agreement.

Parties: San Francisco Bay Conservation and Development Commission and Galilee Harbor Community Association.

Location: 300 Napa Street, in the City of Sausalito, Marin County.



Background

1. **Original Dispute and Agreement.** On or about June 24, 1996, the Commission and GHCA entered into the Settlement Agreement to resolve litigation between the parties. The original dispute arose due to a disagreement between BCDC and GHCA concerning whether a BCDC permit was required to authorize the community of 34 residential live-aboard boats and four houseboats located in the City of Sausalito along the shore of Richardson Bay, east of Bridgeway Boulevard between Dunphy Park and Schoonmaker Point. GHCA contended that the community pre-existed the Commission, and therefore no permit was required for the development and activities associated with the community. The Commission filed an action in state court contending that the community was established after the enactment of the McAteer-Petris Act and the adoption of the San Francisco Bay Plan, and that the community of live-aboard boats and houseboats raised issues of consistency with the Bay Plan.

The Settlement Agreement ultimately resolved the dispute, with the Commission dismissing its complaint against GHCA. In settling the dispute, the Commission agreed that GHCA could proceed with a project known as the “Galilee Marine Service Harbor Project” (“Project”) as specified in the Settlement Agreement, and the GHCA agreed, in part, to install certain public access improvements. More specifically, the Project involved constructing modernized facilities for the live-aboard boats and houseboats, restoring wetlands along the shoreline, installing upland areas for parking and a “live-work” space, and new public access to and along the shoreline, including the installation of a small launching float that enables the public to access the water for recreational purposes. The public small boat launching float is the subject of this amendment request.

As authorized and required in the Settlement Agreement, the approximately 778-square-foot “small boat launching float, gangway, and access deck” were designed to provide the public with a place to launch human-powered recreational boats, such as kayaks, stand-up paddleboards, and canoes. These public improvements were constructed between 2001-2003 as part of Phase I of the Project subject to the Settlement Agreement.

2. **Proposed Third Amendment to the Settlement Agreement.** On January 31, 2020, GHCA requested this Third Amendment to the Settlement Agreement to temporarily remove the launching float for a period of two years. In its request, GHCA contends that, based on present and ongoing circumstances, the public launching facility no longer serves as a recreational public access amenity. GHCA has substantiated that the launching float has become a public safety issue at the Harbor due to overuse by the anchor-out community living illegally on Richardson Bay and access the shore from their vessels moored in the offshore anchorage.



As described by GHCA, the volume of small boats associated with the anchor-out community tied to and using the public launching float has made the boat dock inaccessible to other members of the public who use it for recreational purposes. Additionally, according to GHCA, the residents living in Galilee Harbor have experienced a number of severe safety and welfare issues associated with the use of the public launching facility by individuals in the anchorage. These issues include threats of violence to GHCA residents and staff, exposure of residents (including children living at Galilee Harbor) to drug use and paraphernalia, uncontrolled garbage disposal including garbage in the Bay, physical altercations between individuals from the anchorage using the dock, late night shouting and disturbances, and dangerous boating practices involving the dinghies that are used for movement between Richardson Bay and the shoreline. The GHCA states that the use by the individuals from the anchorage has occurred day and night and that overuse has also damaged the public launching float.

In October 2014, GHCA attempted to improve the situation by posting signage at the site, which limits the hours of public use of the launching float. This signage was approved on behalf of the Commission by the BCDC staff through the “Reasonable Rules and Restrictions” provisions of the Settlement Agreement (Section III.B.7). However, the signage has not been effective and GHCA’s attempts to enforce these rules and restrictions have resulted in anger and threats of physical violence. GHCA considered hiring security guards; however, it determined that the 24-hour security needed would be cost-prohibitive. GHCA characterizes its current request to close and temporarily remove the public dock as a last resort to resolve the issue.

As described above, the Settlement Agreement required the launching float as a public access amenity to encourage and facilitate recreational small boat use at the site. Currently, the non-recreational use of the dock by individuals in the anchorage at Richardson’s Bay has prevented the recreational amenity from being used for its intended purpose. As a result, the current use of the boat dock is not consistent with the terms and conditions of the Settlement Agreement.

Although located within the Bay, the public launching float is located on private property owned by GHCA and, therefore, cannot be patrolled on a regular basis by the Sausalito Police Department. Police officers arrive to resolve problems only if GHCA residents or members of the public report disturbances at the privately-owned dock. The Galilee Harbor Community Association, as an organization, has not been able to institute measures to achieve compliance with the requirements in the Settlement Agreement related to the small launching float. GHCA is comprised of a relatively small number of residents and is not in a position to patrol and control the use through any other means provided in the Settlement Agreement. Alternative shoreline access for individuals from the anchorage is available at a public boat dock at Turney Street, owned and managed by the City of Sausalito. The Turney Street dock is subject to BCDC Permit No. M2014.017.00, issued to the City of Sausalito.

As a result, Commission staff recommends that the Commission authorize the Executive Director to execute the Third Amendment to the Galilee Harbor Settlement Agreement that would allow the Galilee Harbor Community Association to temporarily remove the public launching float for up to two years. After the two-year term, the float would be reinstalled by GHCA. The proposed Amendment to the Settlement Agreement also allows GHCA to request a time extension for the continued closure of the boat dock. Approval of the time extension would be based on a determination by or on behalf of the Commission that the issues at the offshore Richardson Bay anchorage have not been adequately resolved and that the anchorage is not capable of being managed at that time to an extent that the launching float at Galilee Harbor could be reinstalled and operate as a recreational public access amenity.

Exhibits

- A. GHCA Request to Amend Settlement Agreement
- B. Galilee Harbor Settlement Agreement Third Amendment

Recommendation

Staff recommends that the Commission approve and authorize the Executive Director to execute the Galilee Harbor Settlement Agreement Third Amendment.