From: L Z
To: BCDC PublicComment
Subject: Today's BCDC agenda
Date: Thursday, September 7, 2023 9:59:55 AM

In reviewing the letter from Mr. Creech, I am not only saddened and disappointed about the lack of movement forward towards reassessing the outdated BCDC liveaboard rule, but also angered that a governmental agency, whose mission is to preserve our precious SF Bay *FOR* the people, and who has tacitly agreed that the 10% liveaboard rule is outdated, has not stepped up to the challenging but necessary task of truly reevaluating that over 40-year old policy. The BCDC has basically punted to avoid angering their corporate overlords.

The BCDC appears to be wanting to simply to move along with whatever corporate entities like Kilroy and Tideline deem appropriate while shunning the facts of regular people who live and enjoy the respectful use of these lands and waterways. It appears the BCDC's responsibility to the public trust of our waterways isn't so much for the public— common people wanting to use and enjoy the waterways, but more for private entities to profit from. While not surprising, it is deeply disappointing, and quite against thr BCDC's stated purpose and mission.

Yet again, money talks, and the 1% will end up owning and profiting from our waterways, which us commoners will have to pay them for the privilege to enjoy. Pretty messed up if you ask me. But I don't have deep pockets, so of course you won't ask me.

~Lucia

From: Tommaso Boggia
Sent: Thursday, September 7, 2023 1:04 AM
To: Creech, John@BCDC <john.creech@bcdc.ca.gov>; BCDC PublicComment <publiccomment@bcdc.ca.gov>
Subject: SUBJECT: 9/7/2023: Item 11

Dear Bay Conservation and Development Commissioners and staff,

I'm writing to urge you to reconsider the liveaboard limit and stop delaying the reformation of an actively harmful policy with lengthy and costly studies. Your liveaboard policy–which was chosen arbitrarily, without consulting impacted communities as your recently adopted environmental justice standards would compel you to do today, and without any study at the time–is harming recreational access to the bay. Today.

Back when the arbitrary 10% number was chosen, wages, housing, and cost of living were such that a middle class Bay Area family could afford a house and a boat. Today, the situation is different. The 10% liveaboard limit only makes sense today if your mandate is to ensure that wealthy people alone have access to recreation on the bay. There is no way in hell someone like me could afford to both have access to sailing and introduce so many other working class people to sailing without living aboard.

You don't need a lengthy study to show you that it is impossible for a working class person in the Bay Area to sail unless they either live aboard or know someone who does. Given how class-segregated our networks are, this arbitrary limit is blocking access to the bay for working class communities.

Please reverse this arbitrary and harmful policy and do not further delay with lengthy and costly studies,

Tommaso

Tommaso Nicholas Boggia

From: alison madden <alisonmadden@yahoo.com>
Sent: Wednesday, September 6, 2023 7:54 PM
To: BCDC PublicComment <publiccomment@bcdc.ca.gov>
Subject: Public process for Liveaboard Policies - Disagree with staff conclusions

Dear Commissioners,

It appears staff may be recommending that because it is a bit of work, the commission should not do anything regarding looking at liveaboard policies.

This is untrue. The citizen taxpayers deserve better. They vote and pay taxes that fund this Commission.

Allow public to do the work; public trust is natural law, civil law and common law, California needs to stop using "Sovereign"

Allow the people to do the work and educate the Commission through a public process, which the McAteer-Petris Act (MPA) requires.The public trust does not prohibit liveaboards and no court has so held.

Indeed, the "common law" that the staff of BCDC and SLC so often refer to, was initially set by Gaius, the Greco-Roman jurist, well before Justinian, who stated that the public trust was based on the **natural law** of the Greek philosophers, and allowed Greek fishermen to inhabit their vessel anywhere on the public trust, including the upland. It was restated in Civil Law (Justinian took Gaius's Institutes and added Digests and commentary to establish the Corpus Juris Civilis, the body of Roman Civil Law.

It then migrated to english Common Law, where the King ("Sovereign") owned all the land, public trust or not. The "common law public trust doctrine" is not superior to the Public Resources Code, the McAteer Petris Act or any other enactment. Referring to the "common law pubilc trust doctrine" is a red herring, any state and federal decisions are there only to inform. We have statutes and none prohibit residential use of boats in marinas, an overall commercial structure of a mixed use. Moreover, using "Sovereign" is a UK-based relic of miedeval law, not necessary in current California discourse. The SLC and BCDC use it more than courts. The PEOPLE own the public trust land, they are the trustors and beneficiaries of the trust corpus, the land covered by water. The SLC, BCDC and State of California are trustees, with fiduciary responsibilities. The State is NOT the "owner" of "title" as a Sovereign, It is a trust relationship.

Recreation Policies Need not be Revisited

Also, it is not a foregone conclusion that all of the recreational policies of the BCDC need to be revisited. The "liveaboard" (LA) issue was not always tied to the recreation policies. The LA allowance **does not have to have anything to do with the recreational policies**. This is a fallacy and a false pointer.

Origin Story

On adoption of the McAteer Petris Act and the first Bay Plan that emanated from it, **the restriction was to "10% of slips" for "houseboats"**, defined as floating homes and vessels without a means of propulsion (that had been modified to have no such means). This is because these existed before the "University women" even started the initiative that led to protecting the Bay from fill due to dumps and planned highways. (Which I support of course, I am anti large fill). Liveaboards are not now, nor have they ever been, "fill". Preventing haphazard and indiscriminate fill of the Bay was the goal, and is, of the MPA.

"Rich History of Living on S.F. Bay" ("Trav")

Indeed, Will Travis has been quoted as saying the houseboat allowance was due to the "rich history of living on San Francisco Bay", and this was not just recreational boaters, it was commercial users and those who worked on or close to the wharves.

10% was to "houseboats" not ALL liveaboards; No requirement for "safety and security"

There was no restriction to "10% of slips" for ALL liveaboards. The 10% was to houseboats, defined as floating homes or modified craft no longer operable on their own.

Also, it was not required that a marina owner prove that the 10% houseboats was required for "safety and security".

Bureaucratic "creep" starting in the 1980s out of desire to restrict houseboats to Marin

There has been a bureaucratic "creep", which has resulted in the clause "no houseboats" being inserted in every BCDC liveaboard permit outside of Sausalito.

This means **floating homes and houseboat vessels are stuck in Sausalito** and, if there are displacements in the Bay, such as happened at Docktown, the "houseboats" are not let into any marina in South City, S.F., Oakland, Alameda and the like, only Marin. But there are no slips in Marin/Sausalito. This has made owners lose major value in their property. **Houseboats should be allowed in any marina anywhere on the Bay.**

There is also a misconception that there is a '**moratorium**' in Sausalito against any new floating homes, houseboats or new marinas allowing liveaboards. This is untrue. But many people believe this because the 1980 Staff Report suggests this, and this underground assertion is unfounded and unwarranted.

Underground Rule-Making, Overly Restrictive and Bureaucratic without Justification

All of this has occurred **without public hearings, without public participation and in the back rooms and offices of staff, without public input**. At least not in a process and framework, individual LAs and boaters who care are left to address the Commission in two minute snippets weeks apart, without a cohesive study session or framework. But the public (liveaboards and harbor masters) are the ones with the real "on the ground" (or "on the water") experience about what LAs really bring to a marina and a community.

These limitations of the 10% to all LAs vs 10% houseboats, the "no houseboat" insertion in permits Baywide to restrict houseboats to Marin, the position that there is a "moratorium" on floating communities and houseboats in Marin, the requirement that a showing be made of "need for safety and security" **is all underground rule-making in violation of the Administrative Procedures Act of California, as well as the MPA itself**.

Houseboats, floating homes and liveaboard craft are not "fill". They never have been. They float and are easily moved, with or without their own propulsion. A large floating home can be moved with two dinghys, in and around a marina. Water flow in and around a marina still occurs.

The ban on "fill" is to undesired and indiscriminate fill in the Bay, and to fill that is not water related or serving the public. Marinas and all that goes in them is DESIRED fill expressly stated in the MPA.

The 1980s Staff Memo shows bias and resistance to liveaboards

This Commission's staff, in the 1980s, with its Bay Plan revision, started to curtail the movement of houseboats and floating homes around the Bay, to cut back on liveaboards by construing the 10% to be not a limitation to houseboats, but to all liveaboards, tied the LA allowance to the recreational policy, and inserted the requirement that a particularized showing of a need for safety and security be the basis for granting a LA allowance.

All of this occured "because" no process involving the taxpaying, voting citizens ever occurred

All of this is wrong, and exists exactly BECAUSE you have frozen the public out. The public -- liveaboards and harbor masters -- can do the work and provide you with the parameters of a policy and real facts.

Benefits of Liveaboards

Liveaboards by their nature form communities that encourage every aspect of boating, including a **default apprenticeship** in a marina of experts in **marine electrical work, repairs, sail making, and more**. My son would be a marine electrician at this point under the tutelage of both Buckley Stone and JD Hoover, both of whom recently passed on from this world, but who were long-term residents of Redwood City and Oakland marinas, teaching knots and electrical repair to young boaters, supporting Sea Scouts, and more.

There were sail-making shops, marine-related businesses and artist studios at Docktown, owned and operated by residents. The artist sold their watercolors of the surrounding area to the visting public.

Liveaboards **run yacht clubs, have public events, inviting the public to the water, music festivals and safety classes**. They **host cruise-outs and sail ins**. They **clean the Creeks** and surrounding areas of the marinas. At Docktown the upland yacht club had events nearly every week, including **lighted boat parades at holidays, active participation in opening day on the bay, knot tying classes, marine first aid, and much more**.

There is no basis for tying the LA allowance to the recreational policy. But most LAs with a houseboat or floating home almost always also have a recreational sailboat or powerboat at the marina, or nearby. They have kayaks, canoes and paddle boards, and use them frequently.

Also, worldwide, marina residents also offer Airbnb and other events and rentals that allow the public to visit, stay and participate in local water recreation activities.

Effect of the 1980s confirmation bias

The commission has gone from 10% houseboats and no limit on other LAs, at any marina, with no requirement that it be justified for any one given purpose, much less safety and security alone, to only allowing 10% of slips for all LAs, and only when BCDC says so, and only on a showing of safety and security.

Allowing liveaboards furthers the public trust, it does constrain it

The public trust does not require the BCDC restrictions. All of the activities above are trust consistent, and a 20-25% LA allowance at any marina, in any part of the Bay, for any kind of vessel or houseboat, is justified.

There is NO COURT, and no other body, anywhere, ever, that has said that allowing a reasonable number of liveaboards within a commerical marina is contrary to the public trust.

Marinas, wharves, quays, docks and all aspects of marinas are **DESIRED** fill under the McAteer-Petris Act, thus anything that goes in them is as well. Harbor master management can accomodate for moving boats and houseboats to ensure water and light movement in a marina.

When there are no liveaboards, marinas can be empty, without the activity mentioned above. There is nothing to draw the general public down to interact. It is a fallacy that allowing liveaboards cuts into recreational uses, it encourages it. If the BCDC were so concerned about recreation, it would not have issued the emergency demolition permit (unwarranted and illegal) to rip out the outer harbor at Pete's Harbor, or for the SLC to allow Docktown to be decimated. The 400 slip Peninsula Marina, built by a teachers' credit union, is now only 20 slips at most. Oyster Cove is slated to be removed, but should not be, certainly not without an EIR, and it should not be allowed to be ripped out at all, when groups of sailors are ready, willing and able to run it.

BCDC's actions belie that it really is seeking to advance recreatoin through restricting liveaboards.

Rising Tides, Soul-Crushing Housing Crisis

We are in a time of rising tides and a soul-crushing housing crisis. Liveaboards ENHANCE recreation among may other trust purposes, and it is consistent with the public trust for the commission to allow movement of

houseboats, to allow them anywhere, and to allow 20-25% of LAs of any kind in any and all marinas, just based on the reason above.

Just because the Staff says that the "rec policies" need to be looked at as a whole (which is erroneous and a red herring) does not mean that this Commission may not today:

1. Convene a public process where BCDC hears from the public what it's like to live aboard and what LAs bring to the boating and larger community.
2. Raise the allowance to "harbormaster discretion up to 25%" allowed in any marina
3. Without the need for special BCDC permit approval for any given marina for LAs (i.e. it's just allowed in any marina, but subject of course to the 25% limitation, under penalty of enforcement)
4. Do not limit the 25% to a special showing of "needed for safety and security" (although this is a positive benefit, among many others, to having LAs in marinas).
5. Clarify Baywide for all marinas and harbormasters that if a vessel or craft that has a working motor (inboard/onboard or outboard) and thus, a means of propulsion, then it is not a "houseboat" under BCDC guidelines (this is wildly misunderstood).
6. Get rid of the "no houseboats" rule/prohibition, i.e. any LA can be a houseboat/floating home (allow this freedom of movement, which is getting people stuck right now)
*Forbes Island has a means of propulsion and thus, was allowed to stay in Marin as a "non houseboat"
7. Consider that floating communities of more than 25% LAs should also be allowed in places where this is beneficial (i.e. S.F. and South of S.F. that have lost their marinas and floating communities over the last several years).
8. Clarify and confirm that there is no "frozen in time" moratorium on floating communities in Marin.

Thank you, the voting tax paying citizens deserve better.

Alison Madden