

# **RICHARDSON'S BAY REGIONAL AGENCY**

## **Board of Directors Meeting Agenda**

**Thursday, November 8, 2018**

5:30 P.M. to 7:30 P.M.

Tiburon Town Hall, 1505 Tiburon Boulevard, Tiburon, CA

*The Richardson's Bay Regional Agency Board of Directors encourages a respectful dialogue that supports freedom of speech and values diversity of opinion. The Board, staff and the public are expected to be polite and courteous, and refrain from questioning the character or motives of others. Please help create an atmosphere of respect by not booing, whistling or clapping; by adhering to speaking time limits; and by silencing your cell phone.*

**PUBLIC COMMENT IS INVITED CONCERNING EACH AGENDIZED ITEM PURSUANT TO THE BROWN ACT. PLEASE LIMIT YOUR COMMENTS TO THREE (3) MINUTES.**

### **5:30 P.M. CALL TO ORDER - ROLL CALL**

1. Approval of minutes, October 11, 2018.
2. Information: Community Outreach Subcommittee report and presentation regarding Community Efforts
3. Resolution No. 10-18 stating the priorities to improve marine health and safety through enforcement as unoccupied marine debris, unattended/unused mooring balls and floats, and unattended and unoccupied vessels. Staff recommendation: Approve Resolution No. 10-18.
4. Open time for public expression. Members of the public are welcome to address the Board for up to three minutes per speaker on matters not on the agenda. Under the state Brown Act, Board members may not deliberate or take action on items not on the agenda, and generally only may listen.
5. Comments: a) Staff; b) Board Member matters

**NEXT MEETING: December 13, 2018, Belvedere City Hall, 450 San Rafael Avenue, Belvedere**

**AN AGENDA PACKET IS AVAILABLE AT THE SAUSALITO CITY LIBRARY AND ON THE RBRA WEBSITE <http://rbra.ca.gov>, WHERE WRITTEN COMMENTS MAY BE SUBMITTED. TO RECEIVE AN ELECTRONIC MEETING NOTICE, PLEASE EMAIL REQUEST TO DON ALLEE AT [dallee@marincounty.org](mailto:dallee@marincounty.org)**

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# **RICHARDSON'S BAY REGIONAL AGENCY**

**DRAFT MINUTES OF OCTOBER 11, 2018**

**HELD AT TIBURON TOWN HALL CHAMBERS**

**MEMBERS PRESENT:** Marty Winter, Chair (Belvedere); Kathrin Sears (Marin County); Jim Wickham (Mill Valley)

**ABSENT:** Jim Fraser (Tiburon)

**STAFF:** Beth Pollard, (Executive Director); Bill Price (Harbor Administrator)

**ADDITIONAL:** None

Meeting called to order at 5:35 PM.

**Minutes of July 25, 2018 Board of Directors meeting**

Draft minutes were approved unanimously.

## **Mooring Feasibility and Planning Study Request for Proposals (RFP)**

Ms. Pollard outlined her staff report describing the scope of work being a marine ecology-based study for advice on mooring placement locations equipment/technique, and capacity, as well as accessing the shore. She revised the date the proposals were due until after the November 8 meeting to give potential consultants sufficient time to respond.

Chad Carvey asked what the parameters would be for the RFP, especially in terms of mooring capacity, and he suggested having the Richardson's Bay Special Anchorage Association provide input. Jeff Jacob said that eelgrass was down over 9% worldwide in places no boats anchored, and he blamed climate change, and felt that the study was an attack on the anchorage. Rebecca Schwartz-Lessberg encouraged the approval of the study and emphasized that location and type of mooring equipment should be considered. Barbara Salzman, of the Marin Audubon Society stated that it was a step in the right direction, but it was vague in terms of other species and a written report should be created by a consultant familiar with biological communities. Carolyn Carvey said that cruisers needed to be considered.

Ms. Pollard responded that the RBSAA was in the report as a resource for the consultant. Also, that there was the open question of whether Sausalito waters would be included in the mooring analysis. Member Sears pointed out that the comment process was addressed in the RFP along with a specific list of deliverables. She indicated that no decision had been made on a mooring plan and that his RFP was just gathering background information. She also supported Sausalito's inclusion in the planning process. Member Wickham asked if it would make a difference if the boat was a live-aboard or a storage vessel and suggested that be include in the analysis. Chair Winter indicated his interest in moving forward with a mooring plan if a minimal ecological effect could be achieved with better equipment.

The RFP was approved unanimously.

### **Draft ordinance language for amended definitions, vessel requirements and nuisance abatement hearing locations**

Ms. Pollard explained that the ordinance included updated definitions to incorporate the ideas about vessel requirements for seaworthy, operability and sanitation that emerged from the Board's public process blended with definition suggestions from other anchorages. The ordinance also removes Sausalito as the location for nuisance abatement hearings since it is no longer in the Agency. It acknowledges temporary safe harbor for vessels in need of repairs where owners are making good faith efforts to accomplish them. The ordinance language requires review by some federal/state agencies. Member Sears asked if an agency review would slow the process and Ms. Pollard responded that she anticipated their comments could be completed before the next meeting.

Joan Cox, Mayor of Sausalito, recommended following Sausalito's definition of a seaworthy vessel, which mirrored the State definition. Chad Carvey declared that a mooring field was a bad idea that would cause conflict. Louis Tenwinkle said it would be unacceptable to exclude non-moveable boats from the anchorage. Jeff Jacob said that if boats aren't occupied then they sink, and he felt Sausalito was denying social services to the community. Alden Bevington declared that the marine debris law (H & N 550) needs clarification, that 10 days was too short a process time to move a vessel, and that those enforcing the law needed to see people before process.

Rebecca Schwartz-Lessberg suggested looking at the Tomales Bay Mooring Plan for definitions of operability. Doug Storms advised that wrestling with definitions was difficult with the burgee program put together by RBSAA, and he said that there were 30 boats that should have been removed before Alden's. Anne Libbin stated that the RBRA was not free to go against state law, and she suggested a time limit for temporary safe harbor and focusing on pets aboard boats. Opal Merlati felt that the RBRA was hiring police for the anchorage.

Member Sears pointed out that there was no reference to a mooring field anywhere in the RFP document and that RBRA had worked with the RBSAA to get the language. She pointed out that the work done was not intended to solve all the problems, but the focus was on sanitation and safety both on water and on land. This was a good faith effort to bring boats into compliance. She wanted to add the phrase "capable of being made operational" to give a little more space to create opportunities for people to bring their boats up to snuff. Member Wickham advised that the Harbor Administrator would have to make the final determination on operational vessels. Member Sears suggested that language matters; that we shouldn't conflict with state law, but we could have our own interpretation. Chair Winter stated the draft was a good start.

### **Resolution 08-18 accepting grant funds for SAVE program in 2018-19**

The Resolution passed unanimously

### **Resolution 09-18 authorizing application for NOAA's FY 19 Marine Debris Removal Program**

Ms. Pollard outlined the application process and explained the need for a 1:1 match on funds and the 2-year window to expend funds.

Barbara Salzman said more enforcement would be needed to make the grant work. Rebecca Schwartz-Lessberg voiced her support.

Member Sears asked what amount would be asked for from NOAA, and Ms. Pollard responded that grants were generally between \$50,000 and \$150,000.

The Resolution passed unanimously

### **Harbor Administrator's report**

Mr. Price went through the report focusing on vessel removal activities and the recent water tests.

Anne Libbin asked the Board members to reach out to the land-based local governments and get them to communicate to their citizens to bring more focus on water quality issues flowing into the bay from the shoreline.

### **Public Comments not on agenda**

Chad Carvey stated that all the waste generated by his boat was properly disposed of, and he spoke of the small ecological footprint a boat makes when compared with a land-based residence. He also recommended a 30-day time period for marine debris rather than a 10-day period. Barbara Salzman recommended getting a legal analysis for the study, and she advised looking into the Lucy's Law program for mental health resources.

Louis Tenwinkle said it was important to realize that most of the boats don't run, and that they could be repaired for less money that is being spent to wreck them. Rebecca Schwartz-Lesberg suggested that there were lots of ways to look at impacts to wildlife and she hoped that they could be managed. Alden Bevington stated that pollution from shore was damaging the eelgrass and that Audubon should focus on shoreline sources as well.

### **Presentation regarding Community Efforts**

Doug Storms reported on the meetings being held aboard the vessel Vadura at noon on Sundays. He said the Burgee program was proceeding apace, and that the vessels could be brought into compliance with some financial assistance. He also wanted to triage the problem boats that RBSAA had identified before they became huge problems. Alden Bevington described the incident that he had recently experienced with the Sausalito Police Department's abatement of his vessel "Anjuna". He felt that SPD acted in bad faith and he implored the RBRA to develop a humane process for the future, perhaps having a social worker present to diffuse the situation.

### **Staff Comments**

None

### **Board Member Matters**

None

The meeting was adjourned at 7:20 PM.

# **RICHARDSON'S BAY REGIONAL AGENCY**

## **STAFF REPORT**

For the meeting of: November 8, 2018

**To:** Board of Directors  
**From:** Beth Pollard, Executive Director  
**Subject:** Resolution No. 10-18 stating priorities for efforts to improve marine health and safety through enforcement

### **STAFF RECOMMENDATION:**

Approve Resolution No. 10-18.

### **BACKGROUND:**

A goal of the Richardson's Bay Regional Agency (RBRA) is to improve the safety, health, and management of the bay. The Board of Directors is on course in a focused approach towards this goal by:

- Through a marine-ecology based Mooring Feasibility and Planning Study, learn advisable locations, technology, capacity, and shore access for vessels on the bay. Responses to the Request for Proposals are due November 13, 2018.
- Adopting updated ordinance requirements for vessel conditions. First reading of the ordinance is anticipated for December 13, 2018.

In addition, in December 2016, the RBRA Board approved a strategy for what was called "enhanced enforcement" that focused on removal of unoccupied marine debris, unattended moorings and floats, and additional enforcement of vessel registration requirements; this initiative has resulted in the abatement of more than 100 vessels.

### **DISCUSSION:**

Working with the Marin County Sheriff's Office, and with the support of state grant funding, the RBRA continues to carry out the Board-approved enhanced enforcement priorities. However, in addition to vessels that are marine debris, there are vessels that are unattended and unoccupied – some of which are referred to as "storage vessels" - that pose health and safety risks. Wind, inadequate ground tackle, compromised line, and other conditions can cause these vessels to break loose in the anchorage, run aground on shore, or sink. Absent regular attention to the vessel, and/or someone onboard or in very close proximity to obtain access during a storm to address hazards, there is risk to injury to persons, and/or damage to other vessels, other property, or the environment. Members of the public have brought to

the Board's attention their concerns, in particular about vessels that break loose and head or go ashore.

Unattended vessels also can become an attractive nuisance in a similar manner to vacant properties on land; persons who are not the owner and who may not have navigation skills or interest in preserving the vessel's condition may occupy a vessel without the owner's knowledge or permission.

Staff recognizes that even if someone is generally aboard a vessel that they will leave it unattended from time to time. However, knowledgeable attention to the vessel on a regular basis improves the ability to check weather, anchor/mooring lines, whether it is being used by others, and other conditions- thereby reducing the chance for hazards to persons, property, and the environment.

In continued pursuit of a safety, healthy and well-managed bay, staff recommends an expanded scope of Board priorities for marine health and safety efforts to include abatement of unoccupied vessels when voluntary removal fails to occur.

The State of California Harbors & Navigation Code contains provisions in Section 522 - 526 et seq of Division 3, Chapter 3, Article 1 regarding noticing, removal and abatement of abandoned vessels. In summary, vessels that are not authorized and are not being actively watched over for more than 30 days may be considered abandoned. With this determination, a public agency may take steps to remove and abate an abandoned vessel, subject to following notification procedures. Generally speaking, under the procedures, once the vessel is posted for 30 days and notice has been posted in a local periodical, it is subject to removal and abatement after an additional 15 day wait period.

Members of the public who own vessels have raised concern about having sufficient notice about intentions to abate vessels and to have the opportunity to retrieve personal belongings. An extension in the time periods outlined in the code, within reason, could be considered in order for an individual to retrieve personal belongings from a vessel being abated.

**ANALYSIS:**

The RBRA Guiding Principles that apply to the Resolution include:

- (3) Concern for impact on individuals and communities
- (4) Concern for environmental conditions
- (9) Implementation, enforcement and maintenance
- (10) Regard for health, safety and respect
- (11) Water quality

The resolution endeavors to achieve a balance among the Guiding Principles so as to address health, safety, water quality, and environmental conditions, while also recognizing the interests and concerns of vessel owners. Through the Resolution the Board indicates its priorities in addressing marine health and safety as well as

providing guidance to staff to make reasonable accommodations for vessel owners to access and retrieve their possessions that are aboard vessels being abated. Such abatement would only occur when voluntary compliance is not forthcoming from the owner.

By adding unattended, unoccupied vessels in marine health and safety enforcement priorities, RBRA would be taking steps to reduce the number of vessels that currently pose risks through inattention, and that present the risk of declining into derelict condition that is additionally hazardous to persons, property, and the environment.

**FISCAL IMPACT:**

RBRA will use funds from the California Division of Boating & Waterways Surrendered and Abandoned Vessel grant to support the staff time and contractor services necessary to carry out the priorities.

The RBRA is reliant upon assistance from the Marin County Sheriff's Department, the primary law enforcement agency for RBRA's jurisdiction. Since Richardson's Bay is one of the several areas the Sheriff's Marine Patrol Unit serves, staff will need to prioritize its efforts within the Board priorities. Consequently, without additional resources, implementation of the priorities will need to take place over a period of time rather than immediately upon adoption of a resolution.

**NEXT STEPS:**

Subject to Board action, staff will incorporate into its work program the tracking of vessels on the bay that appear to be unattended/unoccupied. After repeated observation of inactivity, staff will proceed with initiating notification. In cases of no or inadequate response by the vessel owner, staff would proceed with pursuing abatement of the vessel.

Attach:

Draft Resolution No. 10-18

RBRA Board of Directors Guiding Principles

**RICHARDSON'S BAY REGIONAL AGENCY**

**RESOLUTION NUMBER 10-18  
OF THE BOARD OF DIRECTORS OF THE RICHARDSON'S BAY REGIONAL AGENCY  
STATING PRIORITIES FOR EFFORTS  
TO IMPROVE MARINE HEALTH AND SAFETY THROUGH ENFORCEMENT**

WHEREAS, on December 1, 2016, the Board of Directors of the Richardson's Bay Regional Agency ("Agency") set priorities for marine safety through an "enhanced enforcement" effort to remove unoccupied marine debris and unattended/unused mooring balls and floats, as well as enforcing registration requirements; and

WHEREAS, among other outcomes, the Board's direction has resulted in the removal of more than 100 vessels from Richardson Bay; and

WHEREAS, members of the community have expressed concern about safety hazards and adverse consequences of unoccupied and unattended vessels, especially during but not limited to winter storms; and

WHEREAS, members of the community have expressed concern that an owner of a vessel have sufficient notice in advance of abatement, and have the opportunity to retrieve personal belongings from the vessel; and

WHEREAS, the Guiding Principles of the Agency include concern for impact on individuals and communities, concern for environmental conditions, regard for health, safety, and respect of community inhabitants, and implementation, enforcement, maintenance and water quality considerations,

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Directors of the Richardson's Bay Regional Agency establishes unoccupied marine debris, unattended/unused mooring balls and floats, unattended and unoccupied vessels, and unregistered vessels as priorities for its efforts to improve marine health and safety on Richardson's Bay through enforcement; and

BE IT FURTHER RESOLVED that the Agency Board authorizes staff to provide an extension in the time periods outlined in State code, within reason, in order for a vessel owner to retrieve personal belongings from his/her vessel being abated.

PASSED AND ADOPTED by the Board of the Richardson's Bay Regional Agency on November 8, 2018.

CERTIFICATION:

\_\_\_\_\_  
Marty Winter - Board Chair

\_\_\_\_\_  
Beth Pollard - Executive Director

**Richardson's Bay Regional Agency  
Board of Directors  
Guiding Principles**

The Board of Directors of the Richardson's Bay Regional Agency is the local governing body that is responsible for determining policy direction for Richardson's Bay and overseeing its implementation. The Board recognizes that current plans, policies and ordinances for Richardson's Bay are not always consistent with all of the current activity taking place on Richardson's Bay. The Board is poised to develop actions to address and rectify incongruence. The purpose of adopting Guiding Principles is to establish how the Board will make decisions on its direction.

*1. Relationships with stakeholders:*

We will seek to understand the perspectives of stakeholder organizations and individual stakeholders before making policy decisions. Stakeholder organizations include, but are not limited to: Audubon California; Bay Development and Conservation Commission; Floating Homes Association; Marin Audubon Society; Marin County Health & Human Services; Marin County Sheriff; Richardson's Bay Special Anchorage Association; San Francisco Bay Commercial Herring Fishermen's Association; City of Sausalito; and Seatrek; Individual stakeholders include but are not limited to persons who own boats and/or live, work or engage in recreational activity on Richardson's Bay; marina/yacht club owners and their boat owners/occupants; owners of property on the bay; and (other) members of the communities of Belvedere, Mill Valley, Tiburon, and unincorporated County of Marin near Richardson's Bay.

*2. Regard for specialized experience and knowledge:*

Persons with first-hand experience and/or trained knowledge will help inform our deliberations in the areas of their expertise. Examples of persons with specialized knowledge and experience include those who currently or have:

- Engaged in recreational activity on the bay
- Experienced as a local mariner
- Fished in Richardson's/San Francisco Bay
- Lived on the water (vessels and houseboats)

- Provided, received or otherwise engaged in human/social services
- Studied and/or worked in environmental sciences
- Worked on or adjacent the water in public safety or other public or private services

*3. Concern for impact on individuals and communities:*

We acknowledge the maritime culture and anchorage history that have existed in and around Richardson's Bay. We recognize that decisions we make about the future direction of Richardson's Bay will impact the lives of people who live on the bay, have vessels on the bay, navigate vessels on the bay, live along the bay, whose livelihoods depend on the health of the bay, whose interests are to maintain maritime culture; who work on the bay; and who live in other areas of our respective jurisdictions. We also recognize the impact of our actions on future residents and generations. We will bear in mind these impacts when we weigh our options and make our decisions, and we will look for ways we can minimize negative human impacts.

*4. Concern for environmental conditions:*

We recognize we are stewards of the environment of the bay and its ~~water quality and~~ natural resources, including rocky and sandy shorelines, wetlands, mudflats, eelgrass and open water habitats, for the benefit of recreation and wildlife. We understand the bay provides a wide range of aquatic and wildlife habitats for abundant and diverse populations of fish, birds & other wildlife, including nursery habitat for ecologically and commercially important species such as herring. We acknowledge that there are many manmade and other factors that affect the ecology of the bay that include anchored vessels, fishing, marinas, waste and waste water disposal/treatment, and other uses, conditions and activities on and along the bay. We will bear in mind the impacts of our decisions on the present and future ecology of the bay.

*5. Communication between RBRA and the community:*

We will be transparent with information as we work to make decisions, we will ask questions when we do not understand, and we will support means for conveying information between the Board and public who may or may not have access to a computer/the internet. We will pay attention to notifying stakeholder communities

about meetings and aim to create an environment where we can learn from multiple perspectives.

*6. Opportunities for collaboration*

We will look to other organizations to establish and/or share common goals. We will be open to ways that we can collaborate with other organizations in the direction and/or actions we undertake to achieve our goals.

*7. Fiscal responsibility*

We will be mindful of our fiscal responsibility to our constituents to use tax dollars prudently, carefully, wisely, and openly.

*8. Deliberate speed in achieving results.*

We will be mindful about taking actions in a timely manner, while respecting the need to have sufficient information on which to base our decisions. We recognize that the thirst for more information and time is ever present, and that as representatives of our agencies we have the responsibility to make the best decisions we can with the information that is available using a reasonable amount of staff time, Board time, and calendar time. We understand that seasons and weather have a bearing on the timing and impacts of our decisions.

*9. Implementation, Enforcement and Maintenance*

We acknowledge the existence of current regulatory policy, plans, ordinances and law. We recognize that wherewithal to implement, enforce and maintain will be required for our decisions on policies, plans, ordinances, and other actions.. We will not adopt rules and regulations for which we will not establish credible and reliable means of operation, enforcement, and maintenance. We understand the need for our ordinances to accurately reflect our direction for our entire jurisdiction

*10. Regard for health, safety and respect*

We recognize and respect the inherent dignity, worth and rights of all inhabitants of the communities of Richardson's Bay. We will seek ways that our actions and collaborations can improve health, safety and respect for those on and around the bay.

*11. Water quality*

We recognize that the value of clean water spans all stakeholder groups and fiscal areas, and is integral to human health, economic productivity, recreation, and wildlife. We also understand and will take into consideration that multiple human and natural factors affect water quality, including populations on and surrounding the bay, tidal actions, and absence of fresh water inflow, the shape, depth and tidal flushing of the bay impacts pollution of the bay. We will bear in mind how our decisions affect water quality in the bay.

*12. Meeting protocol*

We will adhere to the Brown Act open meeting laws, and we will request the public's understanding that it constrains the Board members' ability to respond to comments and questions from the public during the public comment period. We encourage a respectful dialogue that supports freedom of speech and values diversity of opinion. The Board, staff and the public are expected to be polite and courteous, and refrain from questioning the character or motives of others. We will expect persons in attendance to refrain from booing, whistling and clapping, to adhere to speaking time limits, and to silence cell phones.