File No. 120435 Committee Item No. 3
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight **Date** May 31, 2012

Board of Supervisors Meeting **Date** _____

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OTHER **(Use back side if additional space is needed)**

☒	☐	Environmental Review Determination, dtd 5/10/12
☒	☐	Notice of Public Hearing
* ☒	☐	Post-Renovation Berthing Assignment Policy
☐	☐	
☐	☐	
☐	☐	
☐	☐	
☐	☐	

Completed by: Alisa Miller **Date** May 24, 2012
Completed by: _____ **Date** _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

[Park Code - Marina Small Craft Harbor Fees and Licenses]

Ordinance amending the San Francisco Park Code Section 12.11 to: 1) reflect the fees for FY2011-2012 for berthing licenses in the San Francisco Marina Small Craft Harbor; 2) establish a flat daily rate for short-term dock fees; 3) delete fees for obsolete services; 4) add new transfer fee provisions; and 5) authorize annual renewals of berthing licenses pursuant to the Recreation and Park Commission's Marina Rules; and making environmental findings and findings of consistency with the General Plan.

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 120435 and is incorporated herein by reference.

Section 2. The San Francisco Park Code is hereby amended by amending Section 12.11, to read as follows:

SEC. 12.11. MARINA FEES *AND LICENSES*.

The following fees shall be charged for goods and services at the San Francisco Marina Small Craft Harbor:

(a) **Berth*ing Rental License* Fees.** The *following monthly* charges shall be based on the ~~*overall length of the entire vessel or the*~~ length of the berth~~, *which ever is greater*~~.

(1) **West Harbor for Fiscal Year** ~~*2005-2006*~~***2011-2012*:**

Berth Length	**Fee Per Foot/*Per Month***
~~*0' - 25'*~~ *25'*	$~~*5.92*~~ *8.32*
~~*26' - 35'*~~*30'*	~~*6.00*~~ *8.44*
~~*36' - 45'*~~*35'*	~~*7.28*~~ *8.44*
~~*46' - 60'*~~ *40'*	~~*7.44*~~*10.24*
~~*61' - 90'*~~ *45'*	~~*7.60*~~*10.24*
50'	*10.47*
60'	*10.47*
70'	*10.68*
80'	*10.68*
90'	*10.68*

(2) **East Harbor for Fiscal Year** ~~*2005-2006*~~***2011-2012*:**

Berth Length	**Fee Per Foot/*Per Month***
~~*0' - 25'*~~ *20'*	~~*$5.77*~~*$8.45*
~~*26' - 35'*~~ *25'*	~~*5.86*~~ *8.75*
~~*36' - 45'*~~ *30'*	~~*7.10*~~ *8.88*
~~*46' - 60'*~~ *35'*	~~*7.26*~~ *8.88*
~~*61' - 90'*~~	~~*7.42*~~

(3) **West Harbor for Fiscal Year 2012-2013, or upon completion of the West Harbor renovation as certified in writing by the General Manager, *whichever occurs later*:**

Berth Length	**Fee Per Foot/*Per Month***

~~0' – 20'~~	~~N/A~~
~~21' –~~ 25'	$11.61
~~26' –~~ 30'	11.77
~~31' –~~ 35'	11.77
~~36' –~~ 40'	14.28
~~41' –~~ 45'	14.28
~~46' –~~ 50'	14.60
~~51' –~~ 60'	14.60
~~61' –~~ 70'	14.91
~~71' –~~ 80'	14.91
~~81' –~~ 90'	14.91

(b) **Surcharge for Electricity.** The Recreation and Park Department may meter the use of electricity and may charge the berth holder the utility provider's standard rates for usage over 264KW per month.

(c) **Deposits, refundable if there is no loss, damage or need to clean the item.**

(1) Berth	One Month Rent
(2) Electrical Adapter	$125.00
(3) Hazardous Material or Removal Fee	150.00
(4) Key for Visiting Boaters, per key	50.00

(d) **Guest Dock.**

(1) ~~*Recreational*~~ ***Short Term*** **Dock Fees** ~~-~~ *-- $1.50 per foot, per day.*

~~*Length*~~	~~*Fee Per Foot*~~
~~0' – 40'~~	~~$0.50~~
~~41' – 59'~~	~~0.75~~

~~60' – 100'~~	~~1.00~~

(2) ~~Commercial Dock~~ ***Pick Up/Drop Off*** **Fee** – $2.50 per foot and $1.00 per person, *per day*.

(e) **Parking.**

(1) Berth Parking for Owners and Partners Only:	
Two Stickers	Free
Each additional sticker, annually	$120.00
(2) Daily Parking, Allows Permit Holder to Park in Marina Spaces if Available:	
Crew, per day	7.50
Non-Owner, per day	7.50
(3) Special Event Parking, per day	7.50
(4) Trailer/Dingy Parking, for Regatta etc., per day	7.50

(f) **Purchase Fees.**

Key Purchase (Berth holders, Partners and Families), per key	25.00

(g) **Services.**

(1) Chain Fee (delinquent fees, unauthorized vessels), per incident	$50.00
~~(2) Citation Courtesy Notices~~	~~50% of cite fee~~
~~(3) Daily Impound, per day~~	~~$30.00~~
(24) Dock Box Cleaning Fee (from Haz Mat deposit)	$50.00
~~(5) Hydro Hoist Surcharge~~	~~40% of monthly Berth fee~~

(*36*) Impound, per incident	$150.00
(*47*) Harbor Line Installation, per line	$30.00
(*58*) Labor, per incident	$50.00 *flat fee* ~~*O*~~*or* $75.00/hour, whichever is greater. *$100/hour for after-hours.*
(*69*) Late Fees	10% of initial fee
(*710*) Pump-Out	
~~*Sewage, per incident*~~	~~*$5.00*~~
Water, for first incident	$75.00
For subsequent incident(s)	$125.00

(*811*) ~~*Slip*~~ Transfer Fee*s.*~~*; Determined by Size of Berth or Vessel, whichever is greater*~~

Berthing licenses may not be transferred, sold or assigned, except to the extent and on the terms and conditions specifically provided in the Rules and Regulations of the San Francisco Marina Small Craft Harbor ("Marina Rules") as adopted by the Commission.

(A) Except as specified in (B), transfers expressly authorized by the Marina Rules shall be subject to a $50 administrative fee.

(B) The one-time transfer opportunity authorized by the Marina Rules, as adopted by the Commission on April 19, 2012, to effect a transfer of a berthing license and berth with the sale of a vessel within the berth to a new owner from the wait list shall be subject to a transfer fee of: (1) $150 per linear foot of the berth for berths 35 feet and under, (2) $200 per linear foot of the berth for berths 40 and 45 feet, and (3) $325 per linear foot of the berth for berths 50 feet and longer.

(C) Nothing in this subsection (g)(8) or in the Marina Rules shall be construed to (i) convey a vested right to transfer a berthing license or berth, or (ii) prevent the Commission from amending or abolishing the transfer opportunities recognized in this subsection g(8).

~~*(A) For Fiscal Year 2005-2006:*~~

~~*Length*~~	~~*Fee Per Foot*~~

~~20' - 34'~~	~~$30.00~~
~~35' - 45'~~	~~$35.00~~
~~46' and up~~	~~$50.00~~
~~(B) For Fiscal Year 2006-2007:~~	
~~Length~~	~~Fee Per Foot~~
~~20' - 34'~~	~~$35.00~~
~~35' - 45'~~	~~$45.00~~
~~46' and up~~	~~$65.00~~
~~(C) For Fiscal Year 2007-2008:~~	
~~Length~~	~~Fee Per Foot~~
~~20' - 34'~~	~~$40.00~~
~~35' - 45'~~	~~$55.00~~
~~46' and up~~	~~$75.00~~
~~(D) For Fiscal Year 2008-2009:~~	
~~Length~~	~~Fee Per Foot~~
~~20' - 34'~~	~~$45.00~~
~~35' - 45'~~	~~$65.00~~
~~46' and up~~	~~$85.00~~
~~(E) For Fiscal Year 2009-2010:~~	
~~Length~~	~~Fee Per Foot~~
~~20' - 34'~~	~~$50.00~~
~~35' - 45'~~	~~$75.00~~
~~46' and up~~	~~$100.00~~
~~(12) Towing~~	~~$75.00~~

~~*(13) Towing (harbor to harbor)*~~	~~*$100.00*~~

(h) **Storage.**

(1) Dock Box	
One	Free
Each additional, per month	$15.00
(2) Reserved	
(3) Multihull Surcharge – Additional 40% of monthly Berth Fee	
(4) Skiff, less than 20 feet and no power or dock box, per month	$100.00
(5) Small Boat Rack (Dingy, kayak, or canoe), per month	$25.00
(6) Storage Lockers, per month	$25.00

(i) **Wait List Fee.**

Per year	$75.00

(j) **Adjustment of Fees.** ~~*The berth rental and guest dock fees for the West Harbor shall be increased, without further action of the Board of Supervisors, for Fiscal Year 2006-2007 by twenty (20) percent, and for Fiscal Years 2007-2008, 2008-2009, 2009-2010, by four (4) percent per year. Thereafter the berth rental and guest dock fees shall be adjusted in accordance with Section 12.20 of this article.*~~

~~*The berth rental and guest dock fees for the East Harbor shall be increased, without further action of the Board of Supervisors, for Fiscal Years 2006-2007, 2007-2008, 2008-2009 by twelve (12) percent. Thereafter t*~~T~~he~~ *berth rental and guest dock* fees *set forth herein* shall be adjusted in accordance with Section 12.20 of this article.

(k) Berthing Licenses.

(1) A person may not berth a vessel in the Marina without having secured a berthing license from the Harbormaster. Berthing licenses are subject to the Rules and Regulations of the San Francisco Marina Small Craft Harbor ("Marina Rules") as adopted by the Commission, and any subsequent amendments thereto. All berthing licenses, regardless of when granted, constitute a privilege and are not the property of the bertholder. This provision is declaratory of existing law.

(2) The Harbormaster may renew berthing licenses annually in accordance with the procedures set forth in the Marina Rules. There shall be no limit to the number of times that the Harbormaster may renew a berthing license.

(3) The Commission may decide at any time to amend, suspend or terminate the berthing license program for the San Francisco Marina Small Craft Harbor, and the privileges bertholders derive from the program.

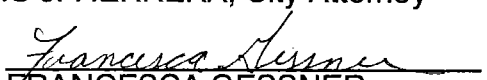
Section 3. Effective Date. This ordinance shall become effective 30 days from the date of passage.

Section 4. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the San Francisco Park Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

Section 5. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The Board of Supervisors hereby declares that it would have passed this

ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this ordinance would be subsequently declared invalid or unconstitutional.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
FRANCESCA GESSNER
Deputy City Attorney

FILE NO. 120435

LEGISLATIVE DIGEST

[Park Code - Marina Small Craft Harbor Fees and Licenses]

Ordinance amending the San Francisco Park Code Section 12.11 to: 1) reflect the fees for FY2011-2012 for berthing licenses in the San Francisco Marina Small Craft Harbor; 2) establish a flat daily rate for short-term dock fees; 3) delete fees for obsolete services; 4) add new transfer fee provisions; and 5) authorize annual renewals of berthing licenses pursuant to the Recreation and Park Commission's Marina Rules; and making environmental findings and findings of consistency with the General Plan.

Existing Law

Section 12.11 of the Park Code sets rates for berthing and other services in the San Francisco Marina Small Craft Harbor.

Amendments to Current Law

The ordinance would amend Section 12.11 of the Park Code as follows:

- Update the monthly berthing fees for the West and East Harbor to reflect the fees for Fiscal Year 2011-12 (§ 12.11(a)(1),(2))
- Set a flat rate of $1.50 per foot per day for short-term dock fees (§ 12.11(d)(1))
- Delete certain fees for services that are obsolete (§ 12.11(g))
- Add new transfer fee provisions (§ 12.11(g)(8))
- Add provisions regarding issuance and renewal of berthing licenses (§ 12.11(k))

Background Information

The berthing fees codified in Section 12.11(a) do not reflect the current rates, which have been automatically adjusted according to the Consumer Price Index over the last several years as authorized by Park Code Section 12.20. The proposed changes to Section 12.11(a) would update the fees to reflect the rates for Fiscal Year 2011-12.

On April 19, 2012, the Recreation and Park Commission adopted Rules and Regulations of the San Francisco Marina Small Craft Harbor ("Marina Rules") that superseded the old Marina Rules. Among other provisions, the Marina Rules include new regulations governing the issuance, renewal and transfer of berthing licenses. The Marina Rules also set new fees for permissible transfers of berthing licenses, subject to Board of Supervisors approval of those fees.

BOARD of SUPERVISORS

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MEMORANDUM

TO: Planning Department
Environmental Review Officer

FROM: Angela Calvillo, Clerk of the Board

DATE: May 9, 2012

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Budget and Finance Committee

The Board of Supervisors Budget and Finance Committee has received the following, which is being referred to the Planning Department for determination as to whether the proposed fee increase will impact the environment.

Please provide your findings within 10 days from the date of referral.

File: 120435

Park Code - Marina Small Craft Harbor Fees and Licenses

Please return this cover sheet with the Commission's response to **Victor Young, Clerk, Budget and Finance Committee.**

c: Joy Navarrete, Major Environmental Analysis
Monica Pereira, Major Environmental Analysis

****

RESPONSE FROM PLANNING DEPARTMENT - Date: 5/10/12

____ **No Comment**

__✓__ **Recommendation Attached**

CEQA Statutory Exemption Section 15273
Rates, Tolls, Fares, and Charges

Bill Wycko, Environmental Review Officer
BY NAVARRETE

Edwin M. Lee, Mayor
Philip A. Ginsburg, General Manager

Date: April 05, 2012

To: Operations Committee of the Recreation & Parks Commission

From: Ana M. Alvarez, Parks and Open Spaces Superintendent

Subject: Approval of New Marina Operational Policies

AGENDA ITEM WORDING

Discussion and possible action to (1) approve a Post-Renovation Berthing Assignment Policy for the Marina West Basin; (2) approve Marina Rules and Regulations to replace all existing Marina rules, regulations, and policies.

BACKGROUND

The San Francisco Marina Small Craft Harbor (Marina) is operated by the San Francisco Recreation and Park Department (SFRPD) under the direct management oversight of its Parks & Open Spaces Division. The management and stewardship of the San Francisco Marina Small Craft Harbor was granted in 1935, under Tidelands Trust Legislation by the State of California, with the stipulation that the City hold it in trust and use it for aquatic, recreational, park and playground purposes.

Multiple types of vessels have berthed at the San Francisco Marina Yacht Harbor, on the City's northern waterfront, since before the 1906 earthquake. It incorporates 671 berths spread over two harbors: East Basin, also known as Gashouse Cove, which hosts City fueling station, Yachts boat sales; and the West Basin, which includes the Saint Francis and Golden Gate yacht clubs, the Harbormaster's building, and The Marina Green Park.

The Marina's operation is regulated by the Recreation and Park Commission through the Marina Rules and Regulations, which have been in place for twenty one years. On July 25, 1991 the Recreation and Park Commission approved amendments to the 1972 Marina Rules and Regulations, which were a revision from 1969. At the July 20, 2000, Recreation and Park Commission meeting, staff presented the June 2000 Performance Audit Report (No. 98090) from the Office of the Controller regarding the management of the Marina, which among other recommendations, called for the revision of the Marina Rules and Regulations.

Over the course of the last ten years with the inception of the Harbor Renovation Program and the issuance of the 2000 Marina audit, the desire and need to revise the existing Marina Rules and Regulations have been voiced by several stakeholders, including two former Harbormasters, the Marina Capital Project Working Group, and the San Francisco Marina Harbor Association. The Recreation and Park Department

committed to engage in this endeavor to coincide with the completion of the West Basin renovation, which is tentatively scheduled to be completed on November of 2012.

Also, at the Recreation and Park Commission meeting of March 04, 2010 and as part of the discussions for the approval of the slip mix designation proposed in the West Harbor Renovation Capital Project, staff informed the Commission of the need to develop a policy to determine the assignment of berths to repopulate the West Basin after the completion of its renovation.

DISCUSSION

BERTHING ASSIGNMENT POLICY

The proposed Post-Renovation Berthing Assignment Policy (Policy) was developed in consideration of the new footprint, current obligations to existing West Basin bertholders, and stakeholders' feedback (Attachment A). The Policy lays out a priority assignment plan; berth selection criteria based on seniority; and describes a detailed process for the repopulation of the West Basin after renovation is completed. Most importantly, the Policy incorporates specific requirements in anticipation of the approval of the new Marina Rules & Regulations. Such requirements include the incorporation of a berthing license and acknowledgement of acceptance of the new rules, as adopted by the Recreation and Park Commission.

MARINA RULES AND REGULATIONS

The proposed new Marina Rules and Regulations set forth the regulatory operational procedures for the management of the San Francisco Small Craft Harbor (Attachment B). Staff conducted an internal review of Marina operations, addressing both performance and regulatory policies, utilizing a 2000 Audit Report of the San Francisco Marina Small Craft Harbor by the City and County of San Francisco Office of the Controller; and past actions taken by the Recreation and Park Commission pertaining to the Harbor Renovation Program. As a result, the need for a comprehensive revision of the existing Marina Rules and Regulations and all existing policies was determined. To that end goal, SFRPD engaged in a six-month process, which incorporates the following elements as its principal framework:

1. Identification of desired outcomes.
2. Utilization of a sound methodology based on industry standards and best management practices.
3. Implementation of a strong community process based on transparency and inclusion of all affected stakeholders.

- **Intended Outcomes**

Staff review led to the proposed revisions and elimination of rules proven to be unenforceable as written or that have undesirable consequences, as experienced in past cases that resulted in litigation from the enforcement of existing rules and regulations. Specifically, the proposed new Marina Rules and Regulations incorporate the infrastructure improvements from the West Basin renovation and achieve the following objectives, which are illustrated in the Intended Outcomes Matrix (Attachment C):

1. Resolution of the City's risk exposure.
2. Resolution of the City's liability exposure.

3. Improvement of public access.
4. Response to stakeholders' feedback.
5. Incorporation of marina industry standards.
6. Alignment of the Marina's operation with best management practices of public marinas.

Policy Formulation Methodology

In an effort to achieve the aforementioned desired outcomes, create a business environment that protects the City's investment, improve Marina operations for bertholders in the Marina and improve the experience for boaters, SFRPD conducted a review and examination that included the following:

1. ***Assessment of Existing Marina Rules and Regulations***

SFRPD commissioned an assessment of the existing Marina Rules and Regulations, which was conducted by MarinaResources, LCC, led by Mr. Walter Timpson, a renowned marina industry professional, who has over thirty-years in marina operations and fifteen-years in instruction in certification of marina management.

The assessment report identified where the greatest weaknesses exist in terms of exposure to liabilities and as they relate to the marine industry standards and best practices. A copy of the assessment report is attached as Attachment D. This report found that the San Francisco's Marina Rules and Regulations' greatest weakness and liabilities lie in three critical areas:

A. Allowance of subletting, as described in Section 3.F
B. Allowance of transfers, as described in Section 3.D
C. Use of a berthing rental contract and the use of the term "permanent" to describe a berthing rental, as described in Section 3.A

Among other recommendations, MarinaResources recommended the elimination of subleasing and transfers as well as the incorporation of berthing licenses as a mechanism to allow greater public access to the Marina.

2. ***Recognition of Best Marina Industry Standards***

SFRPD acquired and consulted the *Marina Manual 2nd Edition*, which is a professionally recognized international benchmark publication designed for marina operators. Specifically, staff conducted a review of recommended best marina industry standards of marina rules and regulations for the efficient management of marina operations. Since the *Marina Manual* also includes the operation of private marinas, staff only considered specific rules and regulations deemed appropriate for public marinas that can best address the recommendations in the MarinaResources Assessment Report.

3. ***Resources from the California Department of Boating and Waterways***

The California Department of Boating and Waterways (DBW) advises on State legislation and administers State programs pertaining to public access to waterways and on-the-water safety. Since DBW funds the loan for the West Basin Renovation Capital Project and imposes loan conditions, staff examined

BDW references and guidance to local governmental agencies pertaining to marina operational rules and regulations.

Staff specifically examined a 2007 DBW commissioned report, *Draft: Marina Practices and Procedures to Allocate Berthing Slips to Vessel Owners* by NewPoint, which surveyed ten public California harbors to compare marina slip transfer policies and assess the impacts of such on public access to the waters. In addition, staff reviewed the corresponding Boating and Waterways Commission agendas and minutes of meetings wherein this matter was discussed.

4. ***Review of Municipally-Managed Marinas Facing Similar Challenges***

Additionally, staff reviewed recent Grand Jury reports in several California municipalities that brought to light the inherent issues with the transferability of berth agreements, allowances for subleasing and other issues pertaining to restricted public access to public marina amenities. Specifically, staff reviewed the Grand Jury Reports for the Cities of Santa Barbara, Santa Cruz and Newport Beach as well as their response to such and subsequent actions to address reports findings.

The constant and common variables pertained to the undesirable consequences of transferability and private subleasing of a scarce public asset (berths), which can be best summarized as issues of fairness, private profit gain, restricted public access by bypassing people on wait lists, and loss of control of marina management operations. The Grand juries were also concerned about the lack of equity and transparency in transactions involving public assets.

Staff reviewed municipalities in transition that took short-term and long-term corrective actions to resolve and/or minimize these types of undesirable consequences, such as the City of Santa Barbara, City of Newport Beach and the City of Long Beach. Corrective alternatives range from the creation of an economic disincentive for transfers; closing wait lists and ceasing the collection of wait list fees; grandfathering existing bertholders; to discontinuing transferability and subleasing allowances altogether.

5. ***Survey of Regional Marinas***

A survey was conducted of twenty regional publicly-owned marinas in the San Francisco Bay Area (Santa Barbara was included as well), with a small sample of privately-owned marinas. Specifically, staff examined corresponding policies on transferability, existence of wait lists, and allowances for berth subleasing. The survey included operational practices for which Marina stakeholders have indicated preference such as: allowing multiple vessels in a berth; allowance of boat lifts; and vessel insurance requirement. The complete survey is attached as Attachment E.

Exhibit 2 below illustrates a brief listing of publicly-owned marinas surveyed and their corresponding data. As indicated in the 2000 Marina Audit, the rules that allows tenants to transfer their berths to the new owners of the boats is not uncommon at other marinas, which do not have wait lists. The recent survey conducted in January 2012 indicates that 88% of publicly-owned marinas do not allow the transfer of a berth. This directly corresponds to the fact that 88% of publicly-owned marinas have wait lists. The survey also found that 81% of the publicly-owned marinas do not allow subleasing.

Exhibit 1
Selected Policies at Surveyed Marinas

Harbor/Marina	Agency	No. Berths	Transferability	Wait List	Subleasing
South Beach	Redevelopment Agency of SF	700	No	Yes	Yes
Santa Barbara	Waterfront Department	597	Yes	Yes	No
Monterey	City of Monterey	413	No	Yes	No
Redwood City	Port of Redwood City	190	No	Yes	No
Antioch	City of Antioch	310	No	Yes	No
Pittsburgh, CA	City of Pittsburgh	575	No	Yes	No
Berkeley	Parks, Recreation & Waterfront	1180	Yes	*No	No
Vallejo	City of Vallejo	750	No	Yes	No
Richmond	City of Richmond	850	No	Yes	No
San Leandro	City of San Leandro Public Works	455	No	Yes	No
Brisbane	City of Brisbane	582	No	Yes	No
Oyster Point	San Mateo County Harbor District	455	No	Yes	No
Coyote Point	San Mateo County Parks	540	No	Yes	Yes
Crescent City	Crescent City Harbor District	85	No	No	No
Moss Landing	Moss Landing Harbor District	600	No	Yes	No
Pillar Point	San Mateo County Harbor District	369	No	Yes	Yes

*current vacancies in all berthing slip categories.

6. ***Community Discourse Process***

In an effort to build trust with affected stakeholders, SFRPD secured the services of an independent consulting firm, Transaction Alternatives, to conduct and facilitate the community stakeholder process which included two community marina meetings; an email account for public feedback; and facilitation of individual meetings with interested parties. The process met its specific established goals and objectives, as follows.

A. Goals: to engage the public and potentially affected stakeholders in a constructive policy dialogue on (1) updating of marina rules and regulations; and (2) developing a berthing assignment policy.

B. Objectives: (1) tap the collective views of participants in the process; (2) explore the issues; (3) distill participants' different viewpoints

Transaction Alternatives issued a Community Feedback Process Report, Attachment F. The report encapsulates stakeholder feedback, which confirms conflicting and competing interests.

Additionally, the current bertholder constituency feedback speaks to three issues of great interest to them:

i. Transfers: Continuance of transferability to maintain the resale value of their vessels, ensure continuity of berth use by their families and legal partners; and preservation of the historic fleet.

ii. Subleasing: Continuance of subleasing by bertholders to ensure the convergence of vessels for races; to maintain the perceived ownership right of the berth; and to prevent SFRPD to "double dip" by subleasing temporary vacant slips and continue to collect fees from the absent bertholder.

iii. Berth Ownership: Issues the effect of a berthing license based on their perceived ownership of the berths in perpetuity thru the current rental berthing agreement and their interpretation of possessory interest tax payment.

▪ Key Issues with Current Rules & Regulations

The demand for berths at the San Francisco Small Craft Harbor continues to grow, as illustrated below in Exhibit 2 Applicants on Marina Wait List. There are currently 223 applicants waiting for a berth, which represents a 9.75% growth rate in less than one fiscal year, as compared to fiscal year 2010-11. However, the Marina Rules and Regulations have not adapted to meet such demand, which create for a series of disconcerting issues. Below is a brief summary of the inherent issues and undesirable unintended consequences associated with the existing berthing assignment policies:

1. Subleasing

As noted in the 2000 Marina Audit, the current provisions in the Marina Rules and Regulations that allow for subleasing of berths are not enforceable, which create unauthorized sublets that exceed the maximum allowed duration of six months, thereby permitting boaters to obtain berths improperly, indefinitely and successfully by passing the Wait List.

Most importantly, there are no controls in place to restrict the subleasing transactions with multiple parties in the same time period, which undermines the effective management of the Marina.

In addition, the unauthorized subletting creates the opportunity for bertholders to exact private profit from the subleasing in excess of the berthing fees. This value may be inappropriate in light of the California Constitution's prohibition against the gifting of public funds or assets set forth in Article XVI, Section 6 of the State Constitution.

2. Transferability

The great majority of turnover in the Marina is attributed to transfers transactions. A review of transfers in the last five years, confirm that such transactions are sales of vessels between unaffiliated third parties, which accounted for over 90% of transfers. Often, the purchasing party replaces the newly purchased vessel with a new vessel shortly (less than 30-days) after executing the transfer of the berthing agreement. Also, it should be noted that in 2011 only one transfer was affected between immediate family members (parent to offspring).

A. ***Adverse Impact to Wait List Applicants***: As noted in the 2000 Audit, the berth transfer policy contributes to long waits for berths, which adversely affects applicants on the wait lists and limits equitable access.

   In the last five years, a total of eighty-nine transfers occurred in the Marina, approximately 40% of the Wait List. On average eighteen transfers per year are affected, which equals 8% of the Marina Wait List. Also, in the last five years the West Basin experienced 25% more transfer transactions than the East Basin.

   Exhibit 2, below, illustrates how long applicants must wait for Marina berths (average most senior applicant date equals twenty-four years). It also includes the most junior applicant dates, which illustrates the demand. For instance, a prospective bertholder recently applied to the 50' berth size category where the most senior applicant has been waiting for forty years.

Exhibit 2 Applicants on Marina Wait List				
Berth Size Category (Ft)	Most Senior Applicant Date	Years Waiting	Most Junior Applicant Date	Total Applicants Berth Size Category
25'	2001	11	2012	13
30'	1985	27	2012	42
35'	1981	31	2012	42
40'	1973	39	2012	54
45'	1981	31	2011	18
50'	1972	40	2012	23
60'	1981	31	2012	15
70'	2008	4	2010	4
80'	1997	15	2012	7
90'	1998	14	2012	5
Total Waitlist Applicants				223

Note: information on file as of 03-28-12.

B. ***Exacting Private Profit from Sale of Scarce Public Amenity***

As indicated in the 2000 Marina Audit, an indirect consequence of the berth transfer policy is that bertholders who sell their boats have the opportunity to profit from their berthing agreement by charging the boat buyers for the value of the berths as well as the value of the boats. The Community Stakeholder Feedback Process recently conducted confirmed the practice of bertholders to fix a premium based on the value of a public amenity to the value of their private asset, the vessel. Often, sale advertisements are posted on line (e.g. Craig's List) promoting the opportunity to acquire a berth at the Marina thru the purchase of a vessel. The advertisements mostly include the benefits of berth locations, as they pertain to parking accessibility, proximity to the Yacht Clubs and the Golden Gate Bridge.

C. ***May Be Considered a Gift of Public Funds***

When there is great demand for berths at the Marina, a value is associated with the transfer of a berthing agreement that is well in excess of the value of the annual berthing fees. The transfer of the berth includes the use of electrical, water, and other City services. As such, this value may be inappropriate in light of the California Constitution's prohibition against the gifting of public funds or assets set forth in Article XVI, Section 6 of the State Constitution.

3. Berthing License

The current berthing agreement and current Marina Rules and Regulations create for a misconception of "ownership rights" in a public asset and public amenity. Such misconception is reinforced by the confusion of a perceived "property right" by bertholders thru the assessment of a Possessory Interest Tax on the occupancy of a berth on public property. The proposed policy regarding berthing licenses is consistent with marina industry practices, best management practices, and provides for clear understanding of authorized private use of public property.

- **Proposed Revisions to Berthing Assignment Policies**

The proposed berthing assignment policies in Section 7 of the new Marina Rules and Regulations resolves aforementioned inherent issues and is responsive to the three key issues of critical interest to the current bertholders constituency, as follows:

1. A fair, reasonable, and legally defensible process that achieves the desired outcomes, as outlined in Attachment A.

2. A migration or transition period that provides a safe pathway for bertholders to be in compliance, including the provision of a one-time opportunity for current bertholders to recoup the premium attached to the purchase of their vessel by the sale of the vessel to a Wait List applicant.

3. A mechanism that provides for the fair distribution of available berths to those who have been on the Wait List.

4. A revised process bringing the Marina's administration of berthing services into compliance with Article XVI, Section 6 of California's Constitution.

5. Provision of several opportunities for the Marina to generate additional revenue, which can assist in funding of Marina operations, maintenance, dredging projects and Marina amenities.

COMMUNITY OUTREACH

Extensive community outreach was conducted as part of the Community Stakeholder Process, thru Transaction Alternatives, Davis & Associates and SFRPD. Most importantly, the community outreach efforts included the posting of the proposed policies in draft form for public review and comment. The Community Feedback Process Report by Transaction Alternatives includes a section on Community Outreach (Attachment F). Below is a brief summation listing of activities.

- Reached approximately 550 stakeholders in two marina community meetings on Dec. 7, 2011 and January 25, 2012.

- Presented at the Annual Meeting of the San Francisco Marina Harbor Association on November 16, 2011.

- At the request of interested stakeholder constituencies, participated in six meetings, as follow:

- Met three times with representatives of the San Francisco Marina Harbor Association on Feb. 22, 2012, March 15, 2012, and March 19, 2012.
- Met twice with representatives of the Folks Boats and Knaars on January 6, 2012 and Feb. 10, 2012.
- Met with a representative of the Kite Boarders constituency, Mr. Tim Robinson, during the week of February 27, 2012.

- Establishment of an electronic email account from December 2011 to date (sfmarina.policies@sfgov.org).
- 3,495 community meeting notifications and updates (as of 3-28-12), electronic and mails
- 2 Media Outlets: (1) Marina Times and Latitude 38 reaching over 60,000 readers
- Four website postings: (1) marina renovation website; (2) SFRPD website on four locations (Marina webpage, Harbor Improvements webpage and Recreation and Park Commission webpage, and Recreation and Park blog).
- Physical Postings: Marina bulletin board and outside the Harbormaster's Office; McLaren Lodge, City Hall and the Library

FINANCIAL IMPACT

The proposed new Marina Rules and Regulations do not have an adverse impact to the Marina Fund. While the new berthing assignment rules provide for a fee reduction of 25% for the temporary suspension of berthing licenses to bertholders desiring to take an extended cruise for a period of ninety day or longer, Section 3.J allows for using such vacant berths for short-term dockage of Marina visitors. Staff believes that the market demand for berthing services at the San Francisco Marina can sustain existing revenue projections.

More importantly, staff anticipates an increase in revenues contingent upon the amendment of the berth/slip transfer fee schedule, Park Code 12.11, to establish a transfer fee of $365 by berth linear foot. Staff will be bringing a separate agenda item on fee amendments to the Recreation and Park Commission at its meeting on April 19, 2012.

STAFF RECOMMENDATION

Staff recommends the approval of the 2012 Post-Renovation Berthing Assignment Policy for the Marina West Basin.

Staff recommends the approval of new Marina Rules and Regulations to replace all existing Marina rules, regulations, and policies.

In Support: District 2 Supervisor Mark Ferrell
The San Francisco Fire Department
Several current Marina bertholders
Several Marina Wait List applicants
Several attendees to Community Marina Meetings

In Opposition: Several members of the San Francisco Marina Harbor Association
Several attendees to Community Marina Meetings

Attachments: Attachment A. Proposed Post Renovation Berthing Assignment Policy

Attachment B. Proposed Marina Rules & Regulations

Attachment C. Marina Rules & Regulations Revisions: Intended Outcomes Matrix.

Attachment D. Assessment Report by MarinaResources, LCC

Attachment E. Survey of Marinas in San Francisco Bay Area and Northern California.

Attachment F. Community Feedback Process Report by Transaction Alternatives

Edwin M. Lee, Mayor
Philip A. Ginsburg, General Manager

Post-Renovation Berthing Assignment Policy

Newly Renovated Marina West Basin

I. AUTHORITY

The Harbormaster, acting under the direction and supervision of the General Manager, subject to the approval of the San Francisco Recreation and Park Commission, shall have full authority in the interpretation and enforcement of the 2012 Berthing Assignment Policy for the Marina West Basin.

II. PRIORITY BERTHING ASSIGNMENT PLAN

Berthing assignments will be issued in the following order of priority:

1. Current Marina West Basin Berth Holders who have signed a new berthing license and accepted the newly adopted Marina Rules and Regulations.
2. Interim Holding Wait List, as described in Section V, below.
3. Short term guests. The Harbormaster shall reserve ten (10) berths, of the berths remaining after Priority 1 and 2, and all side-ties, for short term guests and emergency response vessels.
4. All remaining berths will be assigned to individuals on the current Wait List in order of established seniority by slip size category and in accordance with the Wait List Procedures in the Marina Rules & Regulations.

III. BERTH SELECTION CRITERIA

The bertholder with the most seniority will be offered the first choice of berth that properly fits the bertholder's vessel. Seniority is defined as the length of continuous time an individual has had a valid signed berthing license with the San Francisco Small Craft Yacht Harbor (i.e. a "rental agreement" or "mooring license").

1. The berth must be currently available for assignment.

2. The vessel's dimensions must properly fit the berth length, beam and draft, as follows:
   a) Vessel cannot be longer than the designed berth length, which is the length of the finger pier.
   b) Vessel's length is defined as "length overall", stem to stern, as the vessel sits in the berth.
   c) The beam is defined as the maximum width of vessel at midship.
   d) A vessel will be assigned a berth with a beam of no less than sixteen inches greater than the beam of the vessel, eight inches on each side.
   e) Draft is defined as the depth from the water line to the bottom of the keel.
   f) The draft of the berth must be no less than one foot greater than the draft of the vessel at Mean Low Low tide.
3. The berth size will be equal to the length of the berth of contract prior to the renovation or the actual length overall of the vessel on record in the current berthing license, whichever is greater.

BOARD of SUPERVISORS

City Hall
Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

GOVERNMENT AUDIT AND OVERSIGHT COMMITTEE

NOTICE IS HEREBY GIVEN THAT the Government Audit and Oversight Committee will a hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard

Date: **Thursday, May 31, 2012**

Time: **1:00 p.m.**

Location: **Committee Room 263 located at City Hall**
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

Subject: **File No. 120435.** Ordinance amending the San Francisco Park Code Section 12.11 to: 1) reflect the fees for FY2011-2012 for berthing licenses in the San Francisco Marina Small Craft Harbor; 2) establish a flat daily rate for short-term dock fees; 3) delete fees for obsolete services; 4) add new transfer fee provisions; and 5) authorize annual renewals of berthing licenses pursuant to the Recreation and Park Commission's Marina Rules; and making environmental findings and findings of consistency with the General Plan.

If the legislation passes, the followings fees shall be established or increased:

Marina Fees and Licenses at the San Francisco Marina Small Craft Harbor

West Harbor Berthing for FY2011-2012 (Berth Length Per Foot/Per Month Fee):
25 feet from $5.92 to $8.32;
30 feet from $6.00 to $8.44;
35 feet from $7.28 to $8.44;
40 feet from $7.44 to $10.24;
45 feet from $7.60 to $10.24;
50 and 60 feet shall be $10.47;
70, 80, and 90 feet shall be $10.68.

East Harbor Berthing for FY2011-2012 (Berth Length Per Foot/Per Month Fee):
20 feet from $5.77 to $$8.45;
25 feet from $5.86 to $8.75;
30 feet from $7.10 to $8.88;
35 feet from $7.26 to $8.88.

West Harbor Berthing for FY2012-2013, or upon completion of the West Harbor renovation as certified in writing by the General Manager, whichever occurs later (Berth Length Per Foot/Per Month Fee):
25 feet shall be $11.61;
30 and 35 feet shall be $11.77;
40 and 45 feet shall be $14.28;
50 and 60 feet shall be $14.60;
70, 80, and 90 feet shall be $14.91.

Guest Dock/Short Term Dock Fee shall be $1.50 per foot, per day.

The Pick Up/Drop Off Fee shall be $2.50 per foot and $1.00 per person, per day.

Service Fees (labor, per incident) shall be a $50 flat fee or $75 per hour, whichever is greater. The fee shall be $100 per hour for after-hours.

Transfer Fees for berthing licenses expressly authorized by the Marina Rules shall be subject to a $50 administrative fee. The one time transfer opportunity authorized by the Marina Rules to effect a transfer of a berthing license and berth with the sale of a vessel within the berth to a new owner from the wait list shall be subject to a transfer fee of: (1) $150 per linear foot of the berth for berths 35 feet and under; (2) $200 per linear foot of the berth for berths 40 and 45 feet; and (3) $325 per linear foot of the berth for berths 50 feet and longer.

The fees set forth shall be adjusted in accordance with San Francisco Park Code Section 12.20.

In accordance with Section 67.7-1 of the San Francisco Administrative Code, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public record in this matter, and shall be brought to the attention of the Members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton Goodlett Place, San Francisco, 94102. Information relating to the proposed fee is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, May 25, 2012.

Angela Calvillo, Clerk of the Board

DATED: May 17, 2012
PUBLISHED: May 20 & 26, 2012

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SAN FRANCISCO, CA 94102

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**NOTICE OF PUBLIC HEARING
BOARD OF SUPERVISORS
OF THE CITY AND COUNTY
OF SAN FRANCISCO
GOVERNMENT AUDIT
AND OVERSIGHT COMMITTEE
THURSDAY, MAY 31, 2012 - 1:00 PM
COMMITTEE ROOM 263, CITY HALL,
1 DR. CARLTON B. GOODLETT PL,
SF, CA**

NOTICE IS HEREBY GIVEN THAT the Government Audit and Oversight Committee will a hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard. **File No. 120435.** Ordinance amending the San Francisco Park Code Section 12.11 to: 1) reflect the fees for FY2011-2012 for berthing licenses in the San Francisco Marina Small Craft Harbor; 2) establish a flat daily rate for short-term dock fees; 3) delete fees for obsolete services; 4) add new transfer fee provisions; and 5) authorize annual renewals of berthing licenses pursuant to the Recreation and Park Commission's Marina Rules; and making environmental findings and findings of consistency with the General Plan.

If the legislation passes, the followings fees shall be established or increased: Marina Fees and Licenses at the San Francisco Marina Small Craft Harbor - West Harbor Berthing for FY2011-2012 (Berth Length Per Foot/Per Month Fee): 25 feet from $5.92 to $8.32; 30 feet from $6.00 to $8.44; 35 feet from $7.28 to $8.44; 40 feet from $7.44 to $10.24; 45 feet from $7.60 to $10.24; 50 and 60 feet shall be $10.47; 70, 80, and 90 feet shall be $10.68. East Harbor Berthing for FY2011-2012 (Berth Length Per Foot/Per Month Fee) - 20 feet from $5.77 to $$8.45; 25 feet from $5.86 to $8.75; 30 feet from $7.10 to $8.88; 35 feet from $7.26 to $8.88. West Harbor Berthing for FY2012-2013, or upon completion of the West Harbor renovation as certified in writing by the General Manager, whichever occurs later (Berth Length Per Foot/Per Month Fee) - 25 feet shall be $11.61; 30 and 35 feet shall be $11.77; 40 and 45 feet shall be $14.28; 50 and 60 feet shall be $14.60; 70, 80, and 90 feet shall be $14.91. Guest Dock/Short Term Dock Fee shall be $1.50 per foot, per day. The Pick Up/Drop Off Fee shall be $2.50 per foot and $1.00 per person, per day. Service Fees (labor, per incident) shall be a $50 flat fee or $75 per hour, whichever is greater. The fee shall be $100 per hour for after-hours. Transfer Fees for berthing licenses expressly authorized by the Marina Rules shall be subject to a $50 administrative fee. The one time transfer opportunity authorized by the Marina Rules to effect a transfer of a berthing license and berth with the sale of a vessel within the berth to a new owner from the wait list shall be subject to a transfer fee of: (1) $150 per linear foot of the berth for berths 35 feet and under; (2) $200 per linear foot of the berth for berths 40 and 45 feet; and (3) $325 per linear foot of the berth for berths 50 feet and longer. The fees set forth shall be adjusted in accordance with San Francisco Park Code Section 12.20.

In accordance with Section 67.7-1 of the San Francisco Administrative Code, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public record in this matter, and shall be brought to the attention of the Members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton Goodlett Place, San Francisco, 94102. Information relating to the proposed fee is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, May 25, 2012.

Angela Calvillo, Clerk of the Board

Items 3 and 4 Files 12-0436 and 12-0435	**Department:** Recreation and Park

EXECUTIVE SUMMARY

Legislative Objective

- File 12-0435 would update the Park Code to (a) codify Marina Yacht Harbor fees previously approved by the Board of Supervisors; (b) revise existing fees to increase short term dock fees, add a fee for after hour labor charges, and delete fees for obsolete services; and (c) add new transfer fee provisions.
- File 12-0436 would appropriate $1,039,600 in fund balance of the Marina Yacht Harbor Fund to pay for construction of 36 additional berths as part of the West Harbor Renovation project.

Key Points

- The Board of Supervisors previously authorized the Recreation and Park Department (RPD) to increase Marina Yacht Harbor berthing license fees by the Consumer Price Index (CPI) annually (File 08-1328). Currently, the Park Code lists Marina Yacht Harbor berthing license fees that were in effect in FY 2005-06. The proposed ordinance (File 12-0435) would update the Park Code to codify fees that are in effect in FY 2011-12, and fees for West Harbor berthing licenses that will go into effect once construction of the West Harbor Renovation project is completed in FY 2012-13, as previously approved by the Board of Supervisors in 2008. The proposed ordinance would also revise existing fees to increase short term dock fees, add a fee for after-hours labor charges, and delete fees for obsolete services.
- Currently, the Marina Yacht Harbor allows boat owners to transfer the license for their berth to a new owner when they sell their boat. The proposed ordinance would eliminate this practice, but would allow a boat owner to transfer the berthing license to (1) a spouse or a registered domestic partner, or (2) a new boat purchased by the existing boat owner if the new boat is of comparable size to the previous boat. Upon implementation of the proposed ordinance, existing boat owners will be provided a one-time opportunity to transfer a berthing license upon the sale of the existing owner's boat to a new owner who is currently on the Marina Yacht Harbor wait list. The proposed ordinance would establish new transfer fees to be paid by the existing boat owner upon the one-time transfer.
- RPD is proposing to add 36 berths to the 343 berths included in the current construction of the West Harbor Renovation project, totaling 379 berths. According to Ms. Katherine Petrucione, RPD Director of Finance and Administration, construction of the 36 berths is consistent with RPD's commitment to provide berths for smaller boats of 30 feet or less.

Fiscal Impact

- According to Ms. Petrucione, the Marina Yacht Harbor Fund currently has a balance of $4,243,600. After appropriating $1,039,600 to the West Harbor Renovation Project, the Marina Yacht Harbor Fund will have a remaining fund balance of $3,204,000. The addition of 36 new berths will result in estimated additional annual berthing license fee revenues of $157,000
- The increased Marina Yacht Harbor berthing license fees codified under File 12-0436 are not new fees and do not result in new revenues. Ms. Petrucione states that increased revenues resulting from increases to existing fees, as authorized by the Park Code, will be included in the FY 2012-13 Marina Yacht Harbor budget.

Recommendation

- Approval of File 12-0435 is a policy matter for the Board of Supervisors.
- Approve the requested supplemental appropriation ordinance (File 12-0346).

MANDATE STATEMENT

Mandate Statement

Charter Section 2.109 requires Board of Supervisors approval by ordinance of rates, fees, and similar charges by City departments.

Administrative Code Section 9.105 requires Board of Supervisors approval for amendments to the Annual Appropriation Ordinance.

DETAILS OF PROPOSED LEGISLATION

File 12-0435

The proposed ordinance would make the following revisions to the Park Code:

Codification of Existing Marina Yacht Harbor Fees

The proposed ordinance would codify Marina Yacht Harbor fees previously approved by the Board of Supervisors in 2008 (File 08-1328).

Currently, the Park Code lists the Marina Yacht Harbor berthing license fees for the West Harbor and the East Harbor that were in effect in FY 2005-06. In accordance with the Park Code, the Recreation and Park Department (RPD) is authorized to increase these fees without further action of the Board of Supervisors as follows:

- For the West Harbor by (a) 20% in FY 2006-07; (b) 4% per year in FY 2007-08 through FY 2009-10; and (c) the Consumer Price Index (CPI) in FY 2010-11 and subsequent years; and
- For the East Harbor by (a) 12% in FY 2006-07 through FY 2008-09; and (c) the CPI in FY 2009-10 and subsequent years.

The proposed ordinance would revise the Park Code in order to codify the existing FY 2011-12 Marina Yacht Harbor berthing license fees, as shown in Table 1 below:

Table 1
FY 2011-12 Marina Yacht Harbor Berthing License Fees

	West Harbor	East Harbor
Berth Length	Fee per Foot Per Month	Fee per Foot Per Month
20 feet	n/a	$8.45
25 feet	$8.32	$8.75
30 feet	$8.44	$8.88
35 feet	$8.44	$8.88
40 feet	$10.24	n/a
45 feet	$10.24	n/a
50 feet	$10.47	n/a
60 feet	$10.47	n/a
70 feet	$10.68	n/a
80 feet	$10.68	n/a
90 feet	$10.68	n/a

The proposed ordinance would also revise the Park Code to include the increase in the West Harbor berthing license fees in FY 2012-13, or upon completion of the West Harbor renovation, whichever occurs later, as previously approved by the Board of Supervisors in 2008 and as shown in Table 2 below.

Table 2
FY 2012-13 West Harbor Berthing License Fees

Berth Length	FY 2011-12 Fee	FY 2012-13 Fee	Increase	Percent Increase
25 feet	$8.32	$11.61	$3.29	39.5%
30 feet	$8.44	$11.77	$3.33	39.5%
35 feet	$8.44	$11.77	$3.33	39.5%
40 feet	$10.24	$14.28	$4.04	39.5%
45 feet	$10.24	$14.28	$4.04	39.5%
50 feet	$10.47	$14.60	$4.13	39.4%
60 feet	$10.47	$14.60	$4.13	39.4%
70 feet	$10.68	$14.91	$4.23	39.6%
80 feet	$10.68	$14.91	$4.23	39.6%
90 feet	$10.68	$14.91	$4.23	39.6%

Park Code Section 12.20, in which RPD is authorized to annually increase Marina Yacht Harbor berthing license fees by the CPI, without further Board of Supervisors action, would continue to apply.

Revisions to Existing Fees

The proposed ordinance would also:

- Increase short term dock fees, which currently range from $0.50 to $1.00 per foot per day depending on the length of the boat, to $1.50 per foot per day for all boats;
- Add a new fee of $100 per hour for Marina Yacht Harbor after-hour labor charges; and
- Delete fees for citation courtesy notices, impound, hydro hoist surcharges, and sewage pump out, which are obsolete according to RPD.

Transfer Fees

Currently, the Marina Yacht Harbor allows boat owners to transfer the license for their berth to a new owner when they sell their boat. The Marina Yacht Harbor charges a fee to the boat seller for the transfer of a berth of (a) $50 per foot for berths less than 35 feet; (b) $75 per foot for berths from 35 feet to 45 feet; and (c) $100 per foot for berths longer than 45 feet.

The proposed ordinance would eliminate the current practice of transferring the berthing license to the new boat owner when an existing berth owner sells his or her boat, with the following exceptions:

- The existing boat owner may transfer the berthing license to a spouse or registered domestic partner; and
- If the existing boat owner purchases a new boat of comparable size to the previous boat, the boat owner may transfer the berthing license to the new boat.

The proposed ordinance provides for an administrative fee of $50 to be paid by the existing boat owner to the Marina Yacht Harbor upon the transfer of the berthing license in the two instances noted above.

Upon implementation of the proposed ordinance, existing boat owners will be provided a one-time opportunity to transfer a berthing license upon the sale of the existing owner's boat to a new owner who is currently on the Marina Yacht Harbor wait list. Under the Marina Yacht Harbor Rules and Regulations, approved by the Recreation and Park Commission on April 19, 2012, for such one-time opportunity, the existing boat owner would pay a fee to the Marina Yacht Harbor for the transfer of the berthing license to a new boat owner of (1) $150 per foot for berths 35 feet and under, (2) $200 per foot for berths 40 and 45 feet, and (3) $325 per foot for berths 50 feet or longer.

Annual Berthing License Renewal

The proposed ordinance clarifies that berthing licenses are for a period of one year and may be renewed if the boat is in compliance with Marina Yacht Harbor rules and regulations, and the boat owner does not owe any fees or charges.

File 12-0436

The proposed ordinance would appropriate $1,039,600 in fund balance of the Marina Yacht Harbor Operation Fund to fund construction of 36 additional berths as part of the West Harbor Renovation Project.

RPD began construction of Marina Yacht Harbor West Harbor renovations in February 2011 with expected completion of the renovations in December 2012. West Harbor renovations consist of:

- Replacement docks and berths to accommodate up to 343 boats;
- Construction of two new breakwaters;
- Maintenance dredging; and
- Upgrades to the Harbormaster's Building and public access improvements.

West Harbor renovation funding sources and project costs are $25,992,280, as shown in Table 3 below.

Table 3
West Harbor Renovation Project Sources and Uses of Funds

Sources	
California Department of Boating and Waterways Loan	$23,495,000
Prior Marina Yacht Harbor Fund Appropriations	1,238,550
Saint Francis Yacht Club Maintenance and Capital Fund	1,145,730
Other (PG&E, Mayor's Office of Disability)	113,000
Total Sources	$25,992,280
Uses	
Construction Contract	$19,813,260
Dredging	602,600
Special Construction	130,700
Sediment Remediation	1,138,530
Subtotal, Construction	21,685,090
Engineering and Permits	3,626,130
Management and Administration	681,060
Total Uses	$25,992,280

RPD is proposing to add 36 berths to the 343 berths included in the current construction of the West Harbor Renovation Project, totaling 379 berths. The additional 36 berths would be located along the breakwater at the entrance to the West Harbor, adjacent to the Golden Gate Yacht Club. According to the Recreation and Park Department's presentation at the City's May 14,

2012 Capital Planning Committee, construction of the 36 berths is consistent RPD's commitment to provide berths for smaller boats of 30 feet or less.

The estimated cost of constructing the 36 berths, to be funded by the requested supplemental appropriation is $1,039,600, as shown in Table 4 below.

Table 4
Requested Appropriation for 36 New Berths in the West Harbor

Design, Engineering and Shop Drawings	$80,000
Fabrication of Dock Assemblies	470,000
Delivery and Installation of Dock Assemblies	202,000
Installation of Utilities	188,000
Contingency (10.6%)	99,600
Total	$1,039,600

FISCAL IMPACT

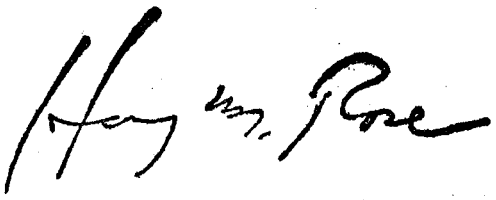
According to Ms. Katherine Petrucione, RPD Director of Finance and Administration, the Marina Yacht Harbor Fund currently has a balance of $4,243,600. After appropriating $1,039,600 to the West Harbor Renovation Project, the Marina Yacht Harbor Fund will have a remaining fund balance of $3,204,000. According to Ms. Petrucione, the addition of 36 new berths will result in estimated additional annual berthing license fee revenues of $157,000.

The increased Marina Yacht Harbor berthing license fees shown in Tables 1 and 2 above are not new fees and do not result in new revenues. According to Ms. Petrucione, increased revenues resulting from increases to existing fees, as authorized by the Park Code, will be included in the FY 2012-13 Marina Yacht Harbor budget.

RECOMMENDATION

Approval of File 12-0435 is a policy matter for the Board of Supervisors.

Approve the requested supplemental appropriation ordinance (File 12-0346).



Harvey M. Rose

cc: Supervisor Farrell
Supervisor Elsbernd
President Chiu
Supervisor Avalos
Supervisor Campos
Supervisor Chu
Supervisor Cohen
Supervisor Kim
Supervisor Mar
Supervisor Olague
Supervisor Wiener
Clerk of the Board
Cheryl Adams
Mayor Lee
Controller
Kate Howard