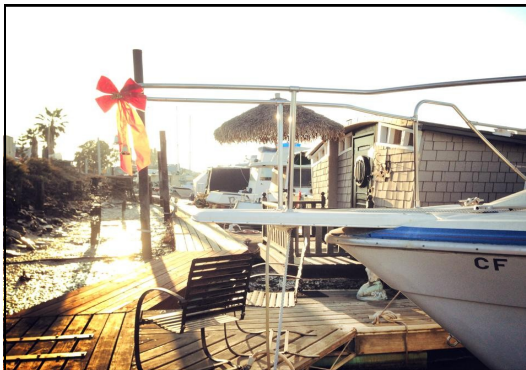




## THE VIEW FROM DOCKTOWN

FOR COMMISSIONERS BETTY YEE, GAVIN NEWSOM, AND MICHAEL COHEN  
AND ALTERNATES ANNE BAKER, RHYS WILLIAMS, AND ERAINA ORTEGA



Submitted by Lee Callister

## THE VIEW FROM DOCKTOWN

Honorable Commissioners

You may recall me as the Docktown Resident who found a place early in the program at the December 18 meeting to remind everyone that Docktown's concerns had not yet been heard at the Commissioners' level. Chairman Newsom responded by asking staff to agendize us for a meeting now scheduled for April 5. I want to personally thank you all for your patience and attention to our concerns at the (very long) Dec meeting.

In my 8 years at Docktown I have become very involved in City politics, and devoted hundreds of hours to researching issues around the history of the Bay, State Lands policies, the Public Trust, and how floating communities are perceived by other cities and states, and around the world. Prior to retiring here I was a video and web producer.



*Thousands of people visit Sausalito for art shows, floating home tours, or just to enjoy the waterfront.*

I disagree with Staff's assessment of our right to be here, which is based on current grant language and an interpretation of the Public Trust that says people should only live on land, and that living on granted water is a private use of public property that provides no public benefits .

To the contrary, I hope to show you that we are not only compatible with the Public Trust, but that our being here benefits both city and state interests. In this document I will summarize some reasons why the Commission should opt to work with us and Redwood City leaders to find a mutually acceptable way for us to stay where we are.

I am asking the Commissioners to consider important issues that go beyond enforcing existing policies, including the evolving nature of the Public Trust, the value of floating homes as innovative architecture and magnets for waterfront visitors, and the richness of our community. And importantly, a source of affordable housing for homeowners and renters, and adaptive architecture that helps us prepare for living in an era of higher sea levels. I would also like them to keep in mind the other floating communities like ours already allowed on San Francisco Bay. Here are three of them.



Sausalito, we are told, was different because of their unique circumstances, ignoring the reality that every floating community has its own set of unique circumstances. The main difference was that the developers there wanted to build piers and lease slips for floating homes.



*Sausalito House boats at low tide*

State Lands said they had no objections when BCDC, the Port of San Francisco, and houseboat owners negotiated a long lease that grandfathered the floating community at Mission Creek, which like Sausalito, has become an attraction.



*Mission Creek in San Francisco*

And SLC has taken no action against the floating community at Barnhill Marina, which was also grandfathered by the BCDC.



*Barnhill Marina in Alameda*

There are, in fact, upwards of 700 floating residences on the Bay right now that look like ours, and no good reason to single us out. And State Lands has known about us for decades, so why is this happening now?



*Houseboats at Docktown in Redwood City*

## **WE HAVE BEEN HERE MORE THAN HALF A CENTURY**

Our marina was founded in 1960<sup>1</sup>, when Sausalito was still an artists' colony, the Mission Creek houseboats had just migrated from Islais Creek, and Barnhill Marina in Alameda had not yet been born. Since then our floating community has expanded with the knowledge of both Redwood City and the State Lands. The City invited new floating homes to locate here as recently as three years ago after the closure of Pete's Harbor.



*A sunset view of Docktown looking downstream*

We are a diverse community of large floating homes, houseboats, and residential boats, with people of all ages, races, and economic status, who know each other and enjoy a rich community life.

Community life revolves around the Yacht Club, where residents have regular dinners, parties, and meetings, organize sailing events, practice yoga, and join the drum circle. I have been to weddings, met babies presented to the community, and taken part in wakes for departed friends at the club.

## **NO LAWS PROHIBIT LIVING ON THE BAY.**

There are no statutes prohibiting people from living on Bay Waters, as evidenced by the other floating communities mentioned, only policies. At Mission Creek, the BCDC, the Port, and the residents owners successfully negotiated a long lease that grandfathered the floating community there, which is run by the residents under a lease from the Port.<sup>2</sup> Barnhill Marina, in Alameda, was also grandfathered by BCDC and continues to thrive.<sup>3</sup> The Berkeley Marina permits houseboats, which are a key feature of the community there. And, of course, the houseboats at Richardson Bay, in Sausalito, are a celebrated cornerstone of the city and a favorite for visitors from around the world.

All Docktown seeks is the opportunity to work with the State Lands Commission and continue to be one of a number of vital floating communities on the Bay.

## **THE CITY OF REDWOOD CITY AND OUR LEGISLATORS FAVOR NEGOTIATIONS.**

The other floating communities exist because the municipalities and harbor owners and residents were able to come together with State lands and the BCDC to alter prohibitive language in the original grants or find workarounds suitable to all parties

Redwood City leaders want to work with the Commission to ensure granted lands are consistent with public needs and the evolving needs of the State under the Public Trust doctrine. We know that other cities and interested parties have worked with the State Land to interpret Public Trust requirements, amend their grants, grandfather their usage of trust properties, swap one parcel of land for another, or otherwise find a way to resolve land use disputes.

The City can meet the public access goals and objectives of the City's Inner Harbor Specific Plan and the State Lands Commission by providing access at Docktown for navigational and recreational uses such as kayaks and canoes.



*Birds feed in the mud at low tide*

## **OUR FLOATING COMMUNITY IS WATER DEPENDENT, AND BENEFITS EVERYONE.**

Our critics point to the terms of the grant which lists acceptable uses (including an airport!) but does not include residential use. Although hotels and even time shares are allowed on trust lands they consider our homes to be a selfish, private use of the water.

The assumption that we should abandon our homes and move to the land because residential living is not, by its nature, water dependent, ignores the reality that throughout the world floating communities are celebrated as innovative housing. From Seattle, and Vancouver to London, Amsterdam and Thailand, floating homes are notable for their charm and their ability to respond to floods and rising sea levels. You can't duplicate in a suburban home the serenity of living on the water, waking up to reflections of shimmering waves on your ceiling, or of watching seabirds feeding at low tide outside your door.



## WE ADD TO PUBLIC ENJOYMENT OF REDWOOD CREEK AND THE INNER HARBOR.



*Our homes do NOT interfere with fishing, navigation or commerce*

As you can see in this picture, the floating community at Docktown does NOT interfere with fishing, navigation or commerce on Redwood Creek as asserted, but rather enhances the maritime experience for visitors to the Inner Harbor, which is **a statewide benefit.**

We are not just a funky little village of people who live on boats. Most of us work hard to keep our homes attractive. Some of our floating homes rival any

houseboats found elsewhere on the bay. Approving our being here will allow the city to respond to our ongoing requests to the city for sewer lines so we are not dependent on pump outs and won't have to discharge any grey-water into the Bay. Long deferred dock upgrades and landscaping will also make a big difference to us and our visitors.

Residents of the floating community at Docktown have been commended by the City Council and given an award for our consistent, ongoing efforts, over 17 years, to clean the creek of thousands of pounds of debris carried downstream from other parts of the City that would otherwise have flowed into the bay, which is **a very Important statewide benefit.**



Learn more about our efforts to protect the creek at [www.romancingthecreek.org](http://www.romancingthecreek.org)

*Over the years we have removed over 75,000 pounds of trash from Redwood Creek.*

## DOCKTOWN AS A DESTINATION

People come to Docktown to enter the world of floating homes; to visit and experience a unique destination that offers an entirely different vision of community than city *or* suburbia.

Rustic still, Docktown will continue to evolve and blossom, taking on the cachet of a unique waterfront community visitors want to experience.

Redwood City's general plan supports our floating homes<sup>4</sup> as did the Inner Harbor Task Force, which adopted as Guiding Principal #6: **Preserve Existing and accommodate new floating communities.**<sup>5</sup> A well attended public workshop overwhelmingly supported keeping floating homes in the Inner Harbor.



*Docktowners cleaning trash out of the creek*

Visitors are coming to Docktown just as they do in Sausalito, where after finally winning a 30 year battle for legitimacy, houseboats are one of the city's biggest tourist attractions.

In addition to strengthening and protecting our environment, we are strengthening our city and the



*Access is about getting out on the water, not just looking at it.*

surrounding region. Docktown is populated by people who cherish and take care of the creek, and love the recreational activities available here.

We sail, kayak, and canoe, giving visitors boat rides up and down the creek and beyond to the sloughs and out into the bay. Doing so helps more people participate in these recreational activities. Our presence here adds a maritime feeling to the experience of visiting the Inner Harbor, just as the Inner Harbor task force recommended. This is still **another statewide benefit.**





## Helping meet the critical need for Affordable Housing

Docktown is not just an amazing place to visit; it's an amazing place to live. And, critically, it's an *affordable* place to live.

***7,500 affordable floating homes built on this award winning model may soon help fight London's crippling housing crisis.***

<http://inhabitat.com/7500-affordable-floating-homes-could-help-fight-londons-crippling-housing-crisis/>

We are one of the last places in the South Bay where people with limited income can

find housing they can afford to buy or rent. New homes built in Redwood City in the last 5 years



*An affordable apartment for rent at Docktown*



*The sunny apartment has three decks and water views.*

have all been for above moderate income households, while 600 units of affordable housing in the form of houseboats and live aboard residences has been lost to development. And this is the most expensive housing market in the country, where rent for a one bedroom apartment can be \$3-4000 per month. This naturally affordable housing is ***another local, regional, and statewide benefit.***



## Adapting to Sea Level Rise



*IJburg, near Amsterdam. Floating homes are expected to make up 40 % of housing in the Netherlands by the end of this century.*



*Plans have been unveiled for Britain's first 'floating village' in the old industrial heart of east London. The 'village' would include 50 custom-built homes and walkways, restaurants and bars.*



*During a King Tide in 2012 flood waters rose within a few feet of the top of the levees at Redwood Shores in Redwood City.*

Perhaps most surprising, given California's reputation for cutting edge advances, is the State's failure to acknowledge the value of floating homes as a solution to land use issues created by flooding and sea level rise.

Floating homes and other adaptive architecture are proving to be solutions to lands otherwise lost to flooding in many countries around the world. This unique floating community is at IJburg near Amsterdam.

Having suffered heavy flooding in recent years, Britain is right behind the Netherlands in adopting this solution, with Denmark, Sweden, and Germany as well as China, Thailand, and Australia also advancing these technologies.<sup>11</sup>

Rising seas, storm surges, and flooding present threats to established communities and undeveloped lands along the coasts and bay waters of California. With water on both sides, San Mateo County may have the most exposure of any county in the State. Houseboats rise with the water.

From its location in the heart of Silicon Valley, Docktown can be a useful laboratory for adaptive technologies, **another statewide benefit.**

## The evolving nature of the public trust

Courts have found that the public uses allowed on sovereign lands are sufficiently flexible to encompass changing public needs, which have evolved in recent years beyond commerce, fisheries, and navigation, to include not only ports, marinas, docks, piers, wharves, and buoys; but hunting, commercial sport fishing, swimming, boating, warehouses, container cargo storage, facilities for the development and production of oil and gas, habitat, wildlife refuges, scientific study, open space, convention centers, and visitor-serving facilities such as hotels, restaurants, shops, parking lots, and restrooms.<sup>6</sup> as well as time shares and other uses.<sup>7</sup>

The State Lands Commission does not have a history of challenging the right of houseboats and floating homes to be on the bay. In 1971 then Attorney General Evelle Younger sent a letter to State Senator Jack Schrade in response to Schrade's question about residential use of waters in San Diego, noting with regards to leased lands:<sup>8</sup>

***"The State Lands Commission may allow the use of relatively small portions of the ungranted tide lands of the Bay for any lawful purpose, including residences, which is not injurious to the harbor of an inconvenience to commerce and which does not have a significant detrimental environmental effect."***

And further notes with regards to granted lands

*...as pointed out above Section 87 (b) of chapter 67 allows leases by the district "for any and all purposes which shall not interfere with commerce and navigation" Under this section, the District could, in our opinion, permit a lessee to use relatively small portions of the granted tideland for non-trust purposes, such as residences...*

By contrast the opinions from the State Attorney General called "Public Trust Policy," and Public Trust Doctrine," used by SLC to define their responsibilities with regard the Public Trust, were solicited by the commission looking for guidelines, and were not written and adopted until 2001.



*SLC is writing leases for Homes at Sandy Beach in Vallejo that encroach on sovereign waters .*

SLC is still writing new leases to residents of Sandy Beach in Vallejo whose homes encroach on trust lands.

For instance SLC signed a general Lease - Recreational and Residential Use" for Alan and Linda Barker in 2005.

In this leases the State acknowledges that this is contrary to the public trust but allows it by grandfathering the existing homes saying

*"...It is the staffs position, supported by advice from the staff of the Attorney General, that residential use is not consistent with the Public Trust under which the Commission holds State-owned sovereign lands, and **should be permitted at Sandy Beach only to the extent it now exists**, for so long as the States lands are not needed for public trust purposes."*

[http://archives.slc.ca.gov/Meeting\\_Summaries/2005\\_Documents/12-08-05/Items/120805C60.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2005_Documents/12-08-05/Items/120805C60.pdf)

Here is a more recent example:

#### **RECOMMENDED ACTION: PUBLIC TRUST AND STATE'S BEST INTERESTS**

It is recommended that the Commission:

*Find that the existing and, for a limited period, continuing use of the property for the proposed activity is not generally consistent with the public trust doctrine, but that **the current use, on balance, does not substantially interfere with the trust and issuing the proposed lease is in the best interests of the State.***<sup>10</sup>

[http://archives.slc.ca.gov/Meeting\\_Summaries/2016\\_Documents/02-09-16/Items\\_and\\_exhibits/C27.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2016_Documents/02-09-16/Items_and_exhibits/C27.pdf)

There is no reason why the language in these new leases at Sandy Beach could not apply to Docktown as well.



## HISTORY INFORMS SOLUTIONS

There are many ways State Lands and the City can legitimize Docktown, from acknowledging that it's time to consider again expanding the Public Trust, to modifying the grant to further acknowledge that Docktown does NOT interfere with fishing, commerce or navigation, DOES enhance visitor experiences, and DOES provides a number of regional and statewide benefits that will only increase over time, including affordable housing and adaptive responses to sea level rise. and if allowed to blossom, an attraction for visitors.

State Lands could also negotiate a land swap as it as in the past, or just grandfather Docktown the way the BCDC grandfathered similar communities under their jurisdiction.

BCDC grandfathered the floating community at Barnhill in Alameda and Mission Creek in San Francisco because they preceded the creation of that organization. They have since authorized permits to expand both marinas. None of this was ever challenged by SLC even though their land grants, like Redwood City's grant, do not specifically authorize houseboats or any other residential use.

BCDC policy, as expressed in the Bay Plan, also called for grandfathering all houseboats that were on the Bay prior to 1985. <http://www.bcdc.ca.gov/pdf/bayplan/bayplan.pdf> pg. 69.

We wonder how State Lands can justify a different policy from BCDC when it comes to Docktown.

## MAKING IT WORK FOR EVERY-ONE

What's clear is that there are many ways the issues raised by Docktown's existence on the creek can be resolved.

We hope, based on a reasonable analysis, that the State Lands Commission will work with the leaders of the City of

Redwood City , State Legislators, and Docktown Residents to forge an agreement that allows the Community of Docktown to remain at its current location on Redwood Creek.



## References

<sup>1</sup> "Boating Days Are Here," *Redwood City Tribune* Apr. 21, 1960;

*"Residents of Docktown Marina a Breed Apart," Peninsula Times, Feb 16, 1981*

<sup>2</sup> Mission Creek history: In **1960** the state of California moved the houseboat a from Islais Creek Basin to Mission Creek. In **1969** the Burton Act transferring the port the city included a grandfather that said the city provide the houseboat community with comparable berths if the occupants were forced to move. In July **1976** a new lease was negotiated, The Mission Creek Harbor Association was formed and, in November **1977**, they took on the management of the Channel Street harbor. *History of Mission Creek*, [http://foundsf.org/index.php?title=Living\\_Memories,\\_1987-2010](http://foundsf.org/index.php?title=Living_Memories,_1987-2010)

<sup>3</sup> Barnhill was grandfathered by the BCDC in **1973**, with terms renegotiated in **1989/99**  
[http://www.alamedafloatinghomes.org/newsletters/AFHA\\_Winter\\_Spring2009.pdf](http://www.alamedafloatinghomes.org/newsletters/AFHA_Winter_Spring2009.pdf)

<sup>4</sup> See housing element and tables in Redwood City's General Plan and EIR., where are multiple discussions  
<http://www.redwoodcity.org/departments/community-development-department/planning-housing/planning-services/general-plan-precise-plans/general-plan>  
<http://www.redwoodcity.org/departments/community-development-department/planning-housing/planning-services/environmental-documents/general-plan-eir>

<sup>5</sup> Inner Harbor Task Force Guidelines  
<http://www.redwoodcity-docs.org/phed/planning/innerharbor>

<sup>6</sup> Most of these allowable public trust uses can be found in the 2011 Revised grant for the City Alameda  
[http://www.slc.ca.gov/Programs/Granted\\_Lands/G01\\_Alameda/G01-01\\_City\\_of\\_Alameda/S2011\\_Ch429.pdf](http://www.slc.ca.gov/Programs/Granted_Lands/G01_Alameda/G01-01_City_of_Alameda/S2011_Ch429.pdf)

<sup>7</sup> Attorney General Dan Lundgren opinion on timeshares  
<http://oag.ca.gov/system/files/opinions/pdfs/95-901.pdf>

<sup>8</sup> Letter in my possession from AG Evelle Younger to State Senator Jack Schrade dated December 20, 1971.  
*Obtained via Public Information Request from the Attorney General's office*

Sandy Beach Leases

<sup>9</sup> [http://archives.slc.ca.gov/Meeting\\_Summaries/2005\\_Documents/12-08-05/Items/120805C60.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2005_Documents/12-08-05/Items/120805C60.pdf)

<sup>10</sup> [http://archives.slc.ca.gov/Meeting\\_Summaries/2016\\_Documents/02-09-16/Items\\_and\\_exhibits/C27.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2016_Documents/02-09-16/Items_and_exhibits/C27.pdf)

<sup>11</sup> A sample of the hundreds of articles about floating homes in the US and around the world  
"Forget houseboats, try floating communities"

<http://www.bbc.com/capital/story/20140917-floating-real-estate>

"Luxury floating village set to be built in London's Docklands..."

<http://www.dailymail.co.uk/news/article-2702773/Luxury-floating-village-set-built-Londons-Docklands-featuring-high-end-homes-restaurants-ice-rink.html/>

"7 Floating homes that will make you want to live on water"

<http://time.com/2924637/7-floating-homes-that-will-make-you-want-to-live-on-water/>

"Eight funky floating homes around the world"

<http://www.stuff.co.nz/life-style/home-property/70728734/Eight-funky-floating-homes-around-the-world>