



Office of the City Manager

CONSENT CALENDAR  
June 13, 2017

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront  
 Subject: Waiver of Annual Marina Berth Fees for Non-Profits

**RECOMMENDATION**

Adopt a Resolution:

1. Affirming the determination by City staff and the Parks and Waterfront Commission that three non-profit organizations at the Berkeley Marina (Berkeley Racing Canoe Club, Cal Sailing Club, and The Pegasus Project) are in full compliance with all aspects of Resolution No. 66,544-N.S.; and
2. Approving the annual waiver of berth fees for the three groups for 2017.

**FISCAL IMPACT**

The table below provides the current value of the free berths at the Berkeley Marina for three non-profit organizations: Berkeley Racing Canoe Club (“Dragon Boats”), Cal Sailing Club, and The Pegasus Project. The total annual value of the current allotment of slips amounts to \$40,594. The Parks and Waterfront Commission and City staff affirm that the value of community service provided by these organizations in the amount of \$272,300 far exceeds the value of the berths they occupy at the Berkeley Marina.

**Marina Berth Fee Waivers - Non-profit organizations**  
**Calendar Year 2017**

Organization / (Berth Slip Location)	Annual Berth Fees Waived	Annual Value of Community Service
1. Berkeley Racing Canoe Club (Dragon Boats) / Slip M001/002 inside ties (106')	\$11,494	\$34,800
2. Cal Sailing Club / Slips J360; J362; J364; J366; J368; J398 (25' ea)	\$20,112	\$60,000
3. Pegasus Project / Slip K46 (54')	\$8,988	\$177,500
<b>Totals</b>	<b>\$40,594</b>	<b>\$272,300</b>

### CURRENT SITUATION AND ITS EFFECTS

Council Resolution No. 66,544-N.S. contains the criteria by which non-profit organizations at the Berkeley Marina receive a waiver of the annual berth fee. The Resolution requires that the Parks and Waterfront Commission review the applications of non-profit organizations in order to affirm compliance with the Resolution, and that each group appears before the Parks and Waterfront Commission on an annual basis to report on its past year's activities, and provide financial statements. At a regular meeting on April 12, 2017, and May 10, 2017, the Parks and Waterfront Commission made the following conclusions:

1. The Parks and Waterfront Commission reasserted that all three organizations have met with the Waterfront Manager, and have stated their commitment to continue to meet the condition of providing community service (see the Commission's motion in the BACKGROUND section below).
2. Waterfront staff has reviewed the non-discrimination policies for each organization and has also reviewed the staff report and finds that these organizations comply with the conditions of the Resolution regarding the promotion of cultural and ethnic diversity. Specifically, staff determined that the organizations comply with the non-discrimination criteria included in the Resolution as described as follows: "membership policy and practices; recruitment strategy; outreach to under-represented minorities; and Mission Statement." All three organizations have written policies that are consistently enforced that prohibit discrimination based on a person's race, color, religion, ethnicity, national origin, age, sex, sexual orientation, marital status, political affiliation, disability or medical condition. Accordingly, the Parks and Waterfront Commission finds that the Berkeley Racing Canoe Center ("Dragon Boats"), Cal Sailing Club, and The Pegasus Project are in specific compliance with the Resolution and recommends that the three organizations be provided waivers of berthing fees for an additional year.

### **Review and Determination by City staff**

The Waterfront Manager has reviewed the required annual reports and met with staff and members of the three non-profit organizations throughout the year. In addition, the three non-profit organizations have submitted annual reports detailing their activities. The Waterfront Manager has confirmed that the three non-profit organizations, The Berkeley Racing Canoe Club, Cal Sailing Club, and The Pegasus Project, fully comply with the criteria in the Resolution.

### BACKGROUND

On March 4, 1997, Council adopted a resolution (since amended, currently Resolution No. 66,544-N.S.) that provides a policy or the free use of berths at the Berkeley Marina by non-profit organizations providing community services that meet specific criteria. The Berkeley Racing Canoe Club has received a waiver of the Marina Berth Fee since 2004 (Resolution No. 62,619-N.S.) The Cal Sailing Club has received a waiver of the Marina Berth Fee since 1999 (Resolution No. 59,986-N.S.) The Pegasus Project

(initially of the Nautilus Institute) has received a waiver of the Marina Berth Fee since 2002 (Resolution No. 59,623-N.S.)

At its regular meeting of April 12, 2017, the Parks and Waterfront Commission took the following action: reviewed and affirmed compliance with Resolution No. 66,544, and recommended Council approval of the annual fee waivers for 2017 for the following two non-profits: a) Berkeley Racing Canoe Club and b) Cal Sailing Club: M/S/C: (McGrath/Kawczynska): Ayes: Ares, Brostrom, Diehm, Kawczynska, McGrath; Noes: None; Abstain: Kamen; McKay; Absent: Lee.

At its regular meeting of May 10, 2017, the Parks and Waterfront Commission took the following action: reviewed and affirmed compliance with Resolution No. 66,544, and recommended Council approval of the annual fee waivers for 2017 for the Pegasus Project: (M/S/C): (Kamen/Kawczynska): Ayes: Ares, Diehm, Kamen; Kawczynska, Lee; McGrath; McKay; Noes: None; Abstain: None; Absent: Brostrom.

The annual application, the Annual application for waivers of berth fees 2017, the Annual Reports for 2016, and the By-laws for the three non-profits are available in the Parks and Waterfront Commission Agenda Packet for the regular meeting of April 12, 2017 at the following link:  
[http://www.cityofberkeley.info/uploadedFiles/Parks\\_Rec\\_Waterfront/Commissions/PWC%20Agenda%20Packet%20-%2004-12-2017.pdf](http://www.cityofberkeley.info/uploadedFiles/Parks_Rec_Waterfront/Commissions/PWC%20Agenda%20Packet%20-%2004-12-2017.pdf)

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects or opportunities associated with the subject of this report.

#### RATIONALE

The three non-profit organizations, The Berkeley Racing Canoe Club, Cal Sailing Club, and The Pegasus Project, have provided community service to the Bay Area (in the amount of \$236,765) that exceeds the value of the berths they occupy at the Berkeley Marina (in the amount of \$40,615).

#### CONTACT

Alexandra Endress, Waterfront Manager, 981-6737

#### Attachments:

1. Resolution
2. Resolution No. 66.544-N.S.

RESOLUTION NO. ~~##,###~~-N.S.

AFFIRMING THE DETERMINATION BY CITY STAFF AND THE PARKS AND WATERFRONT COMMISSION THAT THREE NON-PROFIT ORGANIZATIONS AT THE BERKELEY MARINA (BERKELEY RACING CANOE CENTER, CAL SAILING CLUB, AND THE PEGASUS PROJECT) ARE IN FULL COMPLIANCE WITH ALL ASPECTS OF RESOLUTION NO. 66,544-N.S.; AND APPROVING THE ANNUAL WAIVER OF BERTH FEES FOR THE THREE GROUPS FOR FISCAL YEAR 2016

WHEREAS, in 2017, the three non-profit organizations (Berkeley Racing Canoe Center (“Dragon Boats”), Cal Sailing Club, and The Pegasus Project) submitted annual reports detailing their activities; and the Waterfront Manager has reviewed the required annual reports and met with staff and members of the three non-profit organizations throughout the year; and has confirmed that the three non-profit organizations fully comply with the criteria of Resolution No. 66,544-N.S. (“the Resolution”); and

WHEREAS, the three non-profit organizations, the Berkeley Racing Canoe Center, Cal Sailing Club, and The Pegasus Project, have provided community service to the Bay Area (\$236,765) that exceeds the value of the berths they occupy at the Berkeley Marina (\$40,615); and

WHEREAS, at its regular meeting on April 12, 2017, and on May 10, 2017, the Parks and Waterfront Commission reviewed the detailed analysis that determined that the three organizations have met and have stated their commitment to continue to meet, the condition of providing community service; and

WHEREAS, in addition, the Parks and Waterfront Commission reviewed the non-discrimination policies for the three organizations and also reviewed the staff reports and finds that these organizations fully comply with all the conditions of the Resolution, including the promotion of cultural and ethnic diversity; and

WHEREAS, specifically, staff determined that the organizations comply with the nondiscrimination criteria included in the Resolution as described as follows: “membership policy and practices; recruitment strategy; outreach to under-represented minorities; and Mission Statement.” The organizations have written policies that are consistently enforced that prohibit discrimination based on a person's race, color, religion, ethnicity, national origin, age, sex, sexual orientation, marital status, political affiliation, disability or medical condition; and

WHEREAS, the Parks and Waterfront Commission finds that the three organizations are in specific compliance with the Resolution and recommends that the three organizations be provided with a fee waiver for 2017; and

WHEREAS, at its regular meeting of April 12, 2017, the Parks and Waterfront Commission took the following action: reviewed and affirmed compliance with Resolution No. 66,544, and recommended Council approval of the annual fee waivers for 2017 for

the following two non-profits: a) Berkeley Racing Canoe Club and b) Cal Sailing Club: M/S/C: (McGrath/Kawczynska): Ayes: Ares, Brostrom, Diehm, Kawczynska, McGrath; Noes: None; Abstain: Kamen; McKay; Absent: Lee; and

WHEREAS, at its regular meeting of May 10, 2017, the Parks and Waterfront Commission took the following action: reviewed and affirmed compliance with Resolution No. 66,544, and recommended Council approval of the annual fee waivers for 2017 for the Pegasus Project: (M/S/C): (Kamen/Kawczynska): Ayes: Ares, Diehm, Kamen; Kawczynska, Lee; McGrath; McKay; Noes: None; Abstain: None; Absent: Brostrom.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the applications from the Berkeley Racing Canoe Center ("Dragon Boats"), Cal Sailing Club, and The Pegasus Project for an annual waiver of Marina Berth fees covering 2017 are approved.

RESOLUTION NO. 66,544–N.S.

POLICY FOR THE USE OF BERTHS AT THE BERKELEY MARINA BY NON-PROFIT ORGANIZATIONS PROVIDING COMMUNITY SERVICE

WHEREAS, on March 14, 1997, Council adopted Resolution No. 58,859-N.S. that established the policy by which non-profit organizations at the Berkeley Marina can receive a waiver of annual berth fees if they are found to provide community service that exceeds the value of the berths they occupy at the Berkeley Marina, along with other community service criteria; and

WHEREAS, the procedures for obtaining such waivers involved a review by the Waterfront Commission of the applicant's annual report, annual finances, and by-laws related to their non-discrimination policies and their community outreach efforts to under-served populations; and

WHEREAS, on November 13, 2012, the Parks and Recreation Commission and the Waterfront Commission were consolidated into a single commission called the Parks and Waterfront Commission; and

WHEREAS, as a housekeeping matter, Resolution No. 58,859-N.S. must be updated to change the name of the "Waterfront Commission" in the policy to the "Parks and Waterfront Commission."

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the following policy is hereby established for the use of berths at the Berkeley Marina by non-profit organizations that provide community service:

A. QUALIFYING ORGANIZATIONS: MINIMUM REQUIREMENTS

1. Only those organizations that meet the following criteria shall be eligible to receive berth spaces in exchange for community service:
  - a. The purpose of the organization is to supply a beneficial public service.
  - b. The organization must conduct an activity on a regular and on-going basis.
  - c. The organization must clearly demonstrate that its presence in the Marina or its service to the community, as evidenced by a cost/benefit analysis provided by the non-profit, greatly exceeds the value of the berth.
  - d. The organization must provide a service not duplicated by a private business operator.
2. Only those organizations that demonstrate that they promote cultural and ethnic diversity, as evidenced by the following criteria, shall be eligible for consideration:
  - a. Membership policy and practices.
  - b. Recruitment strategy.

- c. Outreach to under-represented populations.
- d. Mission statement, if any.

The Berkeley Marina advocates and practices equal opportunity in terms of access to its berthing facilities. Availability and use of the facilities will not be predicated on a person's race, color, religion, ethnicity, national origin, age, sex, sexual orientation, marital status, political affiliation, disability or medical condition.

## B. APPLICATION PROCEDURE

1. Non-profit applicants for berths at the Berkeley Marina must make written application to the Waterfront Manager stipulating the following:
  - a. Name and address of organization
  - b. Name, address & telephone number of person responsible for business affairs of the group
  - c. Type of organization
  - d. Number of members in organization
  - e. Level of participation of members
  - f. Age-level of members of organization and/or participants
  - g. Contribution to community including hours of service (if applicable) and activities
  - h. Reason and justification for request
  - i. Time period/duration for use of Marina (indefinite or specific time period)
  - j. Copy of bylaws (if any)
  - k. List of completed and planned community projects
  - l. Financial statement for prior year
2. The Parks and Waterfront Commission shall review the application and make a recommendation to the Council that the provision of community services warrants berthing compensation commensurate with the public benefit.

## C. REPORTING REQUIREMENTS, COMPLIANCE, AND ADMINISTRATION

1. All organizations that receive berthing space compensation in consideration for community services at the Berkeley Marina must comply with the following provisions:
  - a. On February 1 of each year, each organization must submit a report to the Waterfront Manager detailing the organization's community service for the prior calendar year, including the following:
    - 1) Number of members of the organization and/or level of participation.
    - 2) Number and type of community activities.
    - 3) Number of persons participating in each activity both from the membership and from the community, if different.
    - 4) Plans for the upcoming year for community service.

- b. On February 1 of each year, each organization must submit a financial statement for the prior calendar year to the Waterfront Manager.
  - c. No later than the February meeting of the Parks and Waterfront Commission, or at its next meeting in the event there is no February meeting, each organization must appear before the Parks and Waterfront Commission and describe its activities in the prior calendar year, as described in this section.
  - d. On August 1 of each year, each organization must submit to the Waterfront Manager a semi-annual report containing the information described herein for the first six months of the calendar year.
  - e. Any organization failing to provide the prescribed information and reports by the listed deadlines will be required to pay the normal fee charged for its berth or remove its vessel or material from the Marina within thirty (30) days notice by the Waterfront Manager.
2. Organizations that comply with the requirements of this policy and other applicable City ordinances and/or policies shall have any applicable berthing compensation renewed annually by the Council after a review and recommendation by the Parks and Waterfront Commission.
  3. When the owner of a private vessel requests a berth that is occupied by a vessel owned by a non-profit organization receiving berthing compensation for community services, the Waterfront Manager may require, with thirty (30) days advance notice, the vessel owned by the non-profit organization to move to another berth.

BE IT FURTHER RESOLVED that Resolution No. 58,859-N.S. is hereby rescinded.

The foregoing Resolution was adopted by the Berkeley City Council on April 29, 2014 by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: Maio.

  
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 Tom Bates, Mayor

Attest:   
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 Mark Numainville, CMC, City Clerk