

LEGISLATIVE DIGEST

[Implementation of Gashouse Cove Project - Marina Yacht Harbor]

Ordinance prohibiting the Recreation and Park Department and Planning Department from performing environmental review of, or otherwise implementing, a project to clean up and reconstruct the Marina Yacht Harbor in a manner that would extend the West Harbor Marina by more than 150 feet from its current boundary.

Existing Law

The Recreation and Park Department ("RPD") has jurisdiction over the Marina Yacht Harbor, which has both a West Harbor and an East Harbor. The Planning Department is responsible for performing environmental review on City projects.

Amendments to Current Law

The ordinance would prohibit RPD and the Planning Department from pursuing a project at Marina Yacht Harbor that would extend the eastern boundary of the West Harbor Marina by more than approximately 150 feet from its current location.

Background Information

The City filed a lawsuit against PG&E in 2001 over PG&E's obligation to remediate pollution found in the East Harbor. In 2021, the City and PG&E entered into a legal settlement that requires PG&E to fund provide funding for a joint project with RPD for the planning, outreach, design, environmental review, permitting, and completion of the environmental remediation and reconstruction of the Marina Yacht Harbor. (Resolution No. 93-21.) The settlement did not approve a specific design for the project. This ordinance limits the expansion of the West Harbor Marina but also does not approve a specific design for the project. The next step under the settlement is for RPD and PG&E to seek environmental review of different design options for the potential project.

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11/15/23
Assigned TO
LUTC

1 [Implementation of Gashouse Cove Project - Marina Yacht Harbor]

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3 **Ordinance prohibiting the Recreation and Park Department and Planning Department**
4 **from performing environmental review of, or otherwise implementing, a project to clean**
5 **up and reconstruct the Marina Yacht Harbor in a manner that would extend the West**
6 **Harbor Marina by more than 150 feet from its current boundary.**

7 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
9 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

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

15 Section 1. Background and Findings.

16 (a) In 2021, the Board of Supervisors adopted Resolution No. 93-21 to approve the
17 settlement (“Settlement”) of a lawsuit that the City filed against Pacific Gas and Electric
18 Company (“PG&E”) over the discovery of toxic chemical compounds at the East Harbor
19 Marina, which is also known as Gashouse Cove. The Settlement requires PG&E to fund a
20 project at the Marina Yacht Harbor, up to \$190 million, for the joint planning, outreach, design,
21 environmental review, permitting, construction, and completion of a project to remediate the
22 East Harbor and reconstruct the site.

23 (b) The Settlement does not approve a specific design for how the Marina Yacht
24 Harbor would be reconstructed. It identifies several “potential” design elements, and states
25 that these potential elements may change due to various factors, including, but not limited to
“cost, feasibility, permit requirements schedule, public outreach and environmental review.”

1 Likewise, Resolution No. 93-21 states that “the settlement does not obligate the City to
2 approve a project at the Site, and any decision regarding a potential project shall be subject to
3 environmental review under the California Environmental Quality Act and further regulatory
4 and City approvals as required by law following completion of planning and design of plans for
5 the Site.”

6 (c) After approval of the Settlement, the Recreation and Park Department began to
7 perform public outreach on the project, including an option that would involve removing some
8 boat slips from the East Harbor Marina and adding slips in the West Harbor Marina to the
9 point that the eastern edge of the West Harbor Marina would extend far past its current
10 boundary. The Recreation and Park Commission held a public hearing on the matter on
11 October 19, 2023. The public testimony was overwhelmingly in favor of preserving the
12 existing recreational uses of the Marina Green, which include picnics and fishing and walks
13 along the waterfront, and strongly opposed to the idea of placing boats and other obstructions
14 across the entire West Harbor that would interfere with those uses. The Board of Supervisors
15 concurs, and, further, finds that pursuing such an option would needlessly divert attention and
16 resources away from more feasible, superior alternatives.

17 (d) Accordingly, and consistent with the Settlement, the Board of Supervisors finds that
18 it is necessary to focus on strategies to remediate and reconstruct the East Harbor Marina
19 that will not unduly expand the eastern boundary of the West Harbor Marina. The Board does
20 not intend by this ordinance or otherwise to delay or interfere with the remediation of the East
21 Harbor that would need to occur before the reconstruction.

22
23 **Section 2. Implementation of Gashouse Cove Project.**

24 (a) The Recreation and Park Department and Planning Department may not expend
25 any City funds, nor may the Recreation and Park Department authorize PG&E to use any of

1 the Settlement funds, to design, plan, perform environmental review of, or implement the
2 potential project described in the Settlement in a manner that would extend the eastern
3 boundary of the West Harbor Marina by more than approximately 150 feet from its current
4 location. The Controller is hereby prohibited from transferring budgeted appropriations for this
5 purpose without prior approval by ordinance.

6 (b) This ordinance shall not affect or impair the Settlement. The Recreation and Park
7 Department is directed to implement this ordinance in a manner that is consistent with the
8 Settlement. Further, this ordinance does not obligate the City to approve a project at the site,
9 and any decision regarding a potential project shall be subject to environmental review under
10 the California Environmental Quality Act and further regulatory and City approvals as required
11 by law following completion of planning and design of plans for the site.

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13 Section 3. Effective Date.

14 This ordinance shall become effective 30 days after enactment. Enactment occurs
15 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
16 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
17 Mayor's veto of the ordinance.

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19 APPROVED AS TO FORM:
20 DAVID CHIU, City Attorney

21 By: /s/
22 MANU PRADHAN
23 Deputy City Attorney

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