

**CALENDAR ITEM
C78**

A 74

04/23/14

G09-02.5

S 37

R. Boggiano

REVIEW THE PROPOSED EXPENDITURE OF TIDELANDS FUNDS, IN AN AMOUNT NOT TO EXCEED \$6,132,900, BY THE CITY OF NEWPORT BEACH FOR CAPITAL IMPROVEMENT PROJECTS LOCATED WITHIN LEGISLATIVELY-GRANTED SOVEREIGN LAND IN THE CITY OF NEWPORT BEACH, ORANGE COUNTY

APPLICANT:

City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

The City of Newport Beach (City) is trustee of sovereign tide and submerged lands granted by the Legislature pursuant to Chapter 74, Statutes of 1978, and as amended.

BACKGROUND:

Pursuant to Section 1(k) of Chapter 74, Statutes of 1978 as amended by Chapter 317, Statutes of 1997, and Chapter 745, Statutes of 2001 (Chapter 74), the City has submitted a description for a proposed expenditure from the Newport Harbor Capital Fund (Harbor Fund) in the amount of \$6,132,900 for review by the California State Lands Commission (Commission) for consistency with Chapter 74.

The proposed expenditure of \$6,132,900 of tideland revenue is for construction of the marina basin and docks for the Marina Park development located on Newport Beach tidelands, as shown on Exhibit A. The proposed visiting vessel marina facility will include floating docks anchored by pilings to provide 23 slips (21 for boats up to 40 ft, 2 for boats up to 57 ft), a floating dinghy storage dock, dockside utility hookups, and a 200-ft-long dock on the bayfront that could accommodate additional vessels. The docks would include an Americans with Disabilities Act-compliant access ramp and the marina would include basin water circulation enhancement devices.

STAFF ANALYSIS:

Section 1(j) of Chapter 74, as amended, authorizes the expenditure of tideland revenues for any or all of the purposes set forth in Chapter 74 on public trust lands within the City. Section 1(a)(1) of Chapter 74 allows tideland revenue to be expended for a purpose in which there is a general statewide interest and for the establishment, improvement, and conduct of a public harbor; and for the construction, maintenance,

CALENDAR ITEM NO. **C78** (CONT'D)

and operation thereon of wharves, docks, piers, slips, quays, ways, and streets, and other utilities, structures, and appliances necessary or convenient for the promotion or accommodation of commerce and navigation.

Based on the information provided by the City, the proposed construction of a marina basin and docks for the Marina Park development appear to be consistent with section 1 of Chapter 74, as amended, because the project provides for the preservation, maintenance, and improvement of Newport Harbor. A marina basin and docks are consistent with the traditional public trust uses of commerce, navigation and fisheries.

OTHER PERTINENT INFORMATION:

1. Pursuant to Chapter 74, the Commission has 90 days to notify the City that the proposed capital improvement projects are not authorized by the applicable subdivisions of Chapter 74. Commission staff received notice from the City of the proposed expenditure on April 4, 2014.
2. On September 1, 2011, the Commission approved a Compromise Title Settlement and Land Exchange Agreement with the City of Newport Beach to allow for the Marina Park development.
3. On June 21, 2013, the Commission approved the establishment of the Harbor Fund, which restricted expenditures to funding improvements and maintenance activities within granted lands in Newport Harbor, or to reimburse the General Fund for monies loaned to the Harbor Fund.
4. On February 21, 2014, the Commission approved a loan in the amount of \$6,132,900 from the City of Newport Beach General Fund to the Harbor Fund.
5. The staff recommends that the Commission find that the subject consistency determination of proposed expenditures of tideland funds does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15060, subdivision (c)(3), and 15378.

CALENDAR ITEM NO. **C78** (CONT'D)

EXHIBIT:

- A. Location and Site Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

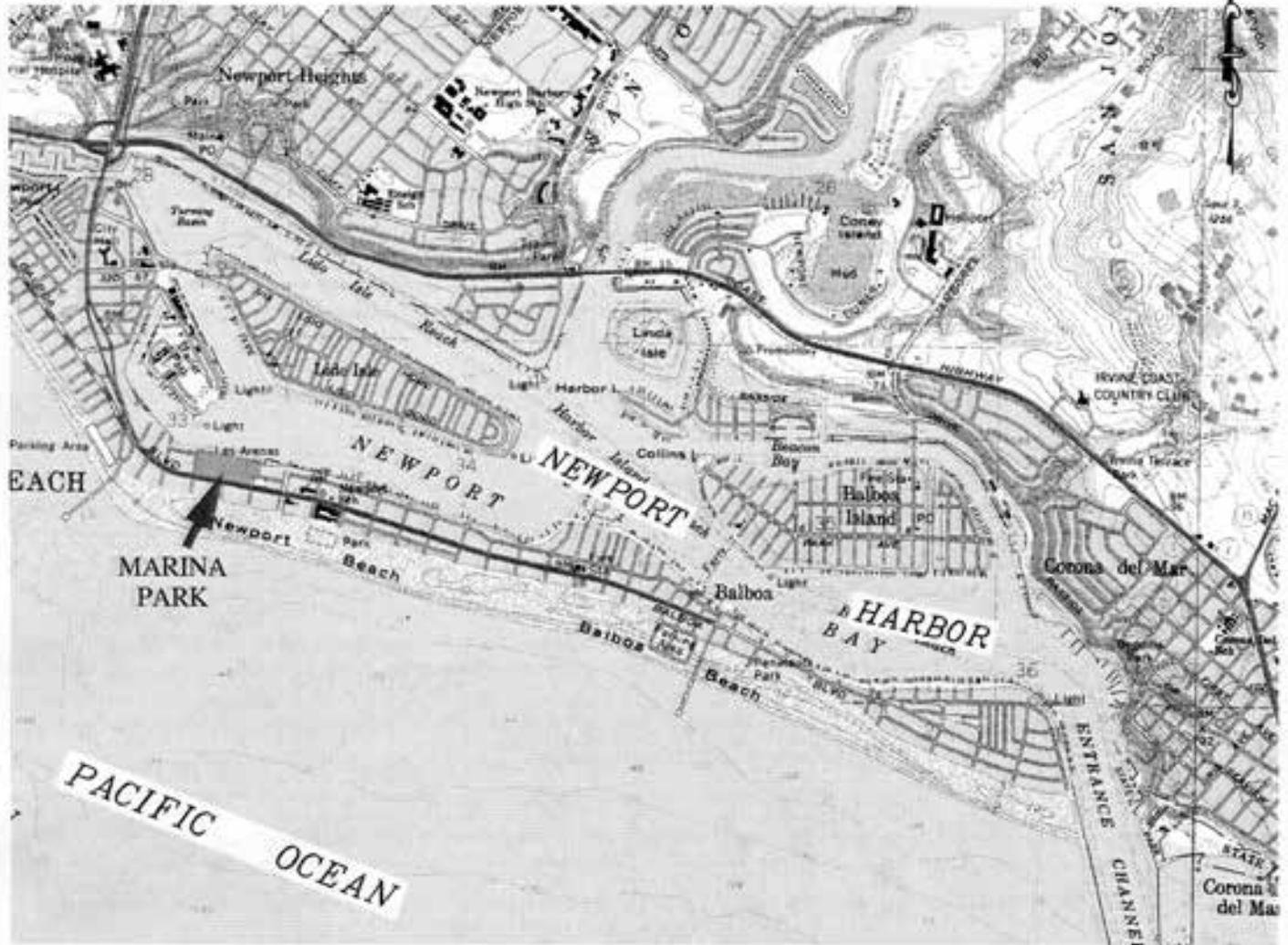
Find that consideration of the consistency of a proposed expenditure of Tideland Funds with section 1 of Chapter 74, Statutes of 1978, as amended, is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

AUTHORIZATION:

Find that the proposed expenditure of tideland funds, in the total amount of \$6,132,900, for the construction of the marina basin and docks for the Marina Park development within the public trust land legislatively granted to the City of Newport Beach, does not appear to be inconsistent with the uses set forth in section 1 of Chapter 74, Statutes of 1978, as amended by Chapter 317, Statutes of 1997 and Chapter 745, Statutes of 2001.

NO SCALE

SITE



NEWPORT HARBOR, NEWPORT BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

G 09-02
 CITY OF NEWPORT
 BEACH
 EXPENDITURE OF
 TRUST FUNDS
 ORANGE COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.