

CALENDAR ITEM

119

A Statewide

12/18/15

S Statewide

S. Pemberton

CONSIDER SPONSORING LEGISLATION TO REPEAL A GRANT OF PUBLIC TRUST LAND MADE IN 1977 TO THE CITY OF ALBANY AND ENACT A NEW GRANT OF PUBLIC TRUST LAND TO THE CITY THAT INCLUDES UPDATED TERMS AND CONDITIONS

SUMMARY:

In 1919, the California Legislature granted the City of Albany tidelands and submerged lands in Alameda County for commerce and navigation purposes. In 1961, and again in 1977, the Legislature amended the grant. The City's granted lands and adjacent property are known as the Albany waterfront. This staff report recommends that the State Lands Commission sponsor legislation to repeal the existing grant to the City of Albany and re-grant the lands with terms and conditions that facilitate their recreational use, provide open-space, and make the grant consistent with modern granting statute requirements.

BACKGROUND AND ANALYSIS:

California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. These lands are held in trust for public uses consistent with the common law Public Trust Doctrine. The Public Trust Doctrine protects the public's right to use waterways for common uses, such as commerce, navigation, fishing, boating, natural habitat protection and open-space, and water-related recreation.

Since 1850, the California Legislature has periodically granted public trust lands to local jurisdictions to hold and manage according to various terms and conditions. Although transferred, these lands remain subject to the Public Trust Doctrine and the State Lands Commission oversees the grants to ensure that the use and management are consistent with the Public Trust Doctrine and granting statutes.

In 1919, the Legislature granted the City of Albany submerged tidelands along the San Francisco Bay waterfront to promote commerce and navigation. These lands now include the former Albany landfill site, encompassing the extension of the Buchanan right-of-way through what is known as the Albany Neck, and nearly all of what is known as the Bulb portion of the Waterfront.

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In 1977, the City of Albany adopted the Albany Waterfront Plan, which reflected the City's plans at that time for recreational-oriented development, including constructing a small craft marina and retail complex. Later that year, the Legislature amended the grant to allow the uses in the Waterfront Plan and to require that future development is consistent with the Plan. Because of financial and legal complications with the landfill's closure, the plan was never implemented. The City is currently in the process of developing a new plan for improving the Albany Neck and Bulb area and transitioning the area to become part of the McLaughlin Eastshore State Park.

To remain in compliance with the granting statute, the City is proposing new legislation modernizing the grant terms and eliminating any reference to the 1977 Albany Waterfront Plan. Under the new grant, the City will submit a new land use plan, including a sea-level rise analysis, to the State Lands Commission for approval. Other new elements include updated non-discrimination language to accurately reflect the State's current non-discrimination law, and aligning financial reporting deadlines with current law.

OTHER PERTINENT INFORMATION:

At its December 7, 2015, City Council Meeting the City of Albany authorized City staff to work with the State Lands Commission staff and State legislative representatives to draft legislation updating the terms of the tidelands grant on the City-owned portion of the Albany waterfront.

STAFF RECOMMENDATION:

Commission staff recommends that the Commission sponsor legislation to repeal a grant of public trust land made in 1977 to the City of Albany and enact a new grant of public trust land to the City that includes updated terms and conditions.

RECOMMENDED ACTION:

It is recommended that the Commission:

1. Sponsor legislation to repeal a grant of public trust land made in 1977 to the City of Albany and enact a new grant of public trust land to the City that includes updated terms and conditions.