

CALENDAR ITEM

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S. Pemberton

CONSIDER PROVIDING DIRECTION TO STAFF IN RESPONSE TO THE CITY OF REDWOOD CITY'S LETTER TO THE STATE LANDS COMMISSION REQUESTING THAT THE COMMISSION SUPPORT LEGISLATION THAT WOULD ALLOW RESIDENTIAL USES TO REMAIN AT THE DOCKTOWN MARINA FOR A LIMITED PERIOD AND SUBJECT TO CERTAIN CONDITIONS

SUMMARY:

On March 15, 2016, the City of Redwood City (City) transmitted a letter (Exhibit A) to the State Lands Commission (Commission) requesting that the Commission support legislation to allow a 15-year transition period for the private residential houseboat community at Redwood City's Docktown Marina, subject to certain conditions.

BACKGROUND:

Docktown Marina is located on sovereign lands legislatively granted in trust to Redwood City under Chapter 1359, Statutes of 1945 and as amended. When the California Legislature grants tidelands and submerged lands in trust to local entities, the state acts as the trustor and the people's representative as beneficiaries of the public trust for the granted lands and the grantee acts as trustee. Grantees must manage granted lands in the state's best interests, consistent with the terms and obligations of their grants and the common law Public Trust Doctrine.

The Legislature granted the sovereign lands at Docktown Marina in trust to Redwood City for "the establishment, improvement and conduct of a harbor, including an airport or aviation facilities, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays and other utilities, structures, facilities and appliances necessary or convenient for the promotion and accommodation of commerce and navigation by air as well as water..." (Chapter 1359, Statutes of 1945).

Today, a private residential houseboat community is located on the granted lands at Docktown Marina. The private residential use has existed for several decades. In 2012, the private marina operator terminated the permit and lease with the City, and shortly thereafter, the City began managing Docktown. There are approximately 70 residents living on the granted public trust lands at Docktown Marina under month-to-month leases with the City, and the City estimates that

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there are approximately 8 to 10 subleases, though there may be more that the City is not aware of. The City does not allow new leases.

In 2013, several Docktown Marina residents contacted Commission staff and requested an informal meeting to discuss the floating home community at Docktown Marina. The residents and Commission staff met in May of 2013. Also in 2013, the City established a 15-member Inner Harbor Task Force as an advisory body to assist with developing a specific plan for the Inner Harbor area of Redwood City, including the Docktown Marina. At the City's request, State Lands Commission staff participated in the task force.

On February 25, 2014, in response to questions about the consistency of the Docktown Marina with the City's trust grant, Commission staff transmitted a letter to the City stating that the private residential houseboat community at Docktown violates the terms of the City's granting statutes and is inconsistent with the common law Public Trust Doctrine. On April 27, 2015, Commission staff transmitted a letter to the City urging the City to continue working collaboratively with stakeholders to ameliorate these issues and to work with the tenants to prepare a reasonable relocation timeframe that carefully considers the sensitivities in relocating residents.

In January 2016, the Commission advised the City of an informal opinion by the Attorney General's Office that residential uses at Docktown Marina are inconsistent with the City's granting statutes and the common law Public Trust Doctrine. The letter noted, among other things, that private use of houseboats detracts from legitimate public trust uses by depriving the public of access to the tidelands for recreational, navigation, and similar public trust purposes.

CITY OF REDWOOD CITY LETTER TO THE COMMISSION:

The City's letter to the Commission requests that the Commission support legislation to allow Docktown residents to remain on the granted lands for a limited period of 15 years to balance the hardship of requiring near-term relocation of all tenants with the public need for greater recreational access to the area. The City requests that the legislation include the following conditions:

- No new tenants, new live-aboard watercrafts and transferring existing watercraft at Docktown.
- All live-aboard watercrafts are owner-occupied or City owned. No subleases are allowed.
- The City be required to report to the Commission regularly on the status of Docktown and public access improvements in the area.

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In 1981, the Legislature allowed residential use to continue temporarily at the DeAnza Point Mobile Home Park in San Diego located on granted lands in Mission Bay because of the hardship of relocating residents. The Legislature further required the City to implement a relocation plan, finding that private residential use of tidelands and submerged lands conflicts with the common law Public Trust Doctrine and the Legislature's intent in granting the land. Similarly, the City has requested that the Commission support a legislative solution for Docketown that allows a reasonable timeframe for existing residents to transition to alternative locations. This proposed legislative solution is limited to a temporary transitional period as an accommodation for existing residents. The proposed legislative solution would not modify or affect the Public Trust Doctrine in any way, either generally or as applied to the granted lands at Redwood City specifically.

STAFF RECOMMENDATION:

Direct staff to work with the City of Redwood City, state legislators representing Redwood City and other stakeholders to draft legislation that allows a reasonable timeframe for existing residents at the Docketown Marina to transition to alternative locations, while increasing public access to the area and recognizing that residential use of granted sovereign lands is inconsistent with the City's trust grant and the common law Public Trust Doctrine.

OTHER PERTINENT INFORMATION:

The proposed action is consistent with the Commission's Strategic Plan 2016-2020 Strategy 1.2 - Provide that the current and future management of ungranted sovereign lands and resources and granted lands, including through strategic partnerships with trustee ports and harbor districts, is consistent with evolving Public Trust principles and values; Key Action Item 1.2.1 - Provide guidance to grantees, lessees, and applicants on the elements of the Public Trust Doctrine, fiduciary duties, and use of trust lands and assets.

EXHIBIT:

- A. Copy of the City of Redwood City Letter

RECOMMENDED ACTION:

It is recommended that the Commission:

1. Direct staff to work with the City of Redwood City, state legislators representing Redwood City and other stakeholders to develop a legislative solution for the Docketown Marina consistent with the City's request.

Mayor John Seybert
Vice Mayor Ian Bain

Council Members
Alicia Aguirre
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March 15, 2016

Betty T. Yee
Chair, State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825-8202

RE: Request for Support of Legislation Related to Docktown Marina in Redwood City, CA

Dear Chair Yee:

This letter is to request that the State Lands Commission support legislation regarding Docktown Marina in Redwood City, as more specifically outlined below.

Docktown Marina, which sits on granted lands in Redwood City, has been the home to “live-aboard” watercrafts for over 50 years. The City took over management of Docktown Marina in 2013 when its private operator gave notice to terminate the permit under which it operated. Since taking over operations, the City has been in constant communication with State Lands Commission staff to determine whether residential use was allowed on granted lands.

In January of this year, the State Lands Commission advised the City through an informal opinion by the Attorney General’s Office that residential uses at Docktown Marina are inconsistent with the State Lands Grant issued to the City. The informal opinion opined that private residential use is inconsistent with the Public Trust Doctrine. Also in January of this year, the City settled litigation with a citizens group wherein the City agreed that absent a superseding public change in Commission policies related to Docktown or superseding action by the Legislature to allow residential use in Docktown, the City would take formal action by December 31, 2016 to adopt a Docktown Plan which is consistent with the informal opinion of the Attorney General’s Office. Given the Commission’s formal position on residential use along with the City’s settlement of litigation related to Docktown, the City is seeking assistance from the Commission to support legislation that would allow residential uses to remain at Docktown for a limited period.

This proposed legislation, as more specifically outlined below, would balance the hardship of requiring near-term relocation of all tenants with the public need for greater recreational access to the area. It is important to note that the City is already in the process of planning for greater recreational access to Docktown Marina. Docktown Marina is part of a larger area of the City, which is described in the City's General Plan as the "Redwood Creek/Harbor Center" Area. The area immediately adjacent to the public trust lands is designated as "Public Space". Therefore, the General Plan requires future improvements facilitate public access and open space along the waterline. The City is currently contemplating including in future planning documents substantial improvements to the public shore of granted lands, including the Docktown area, to facilitate increased public access and amenities.

The City understands that private residential uses are inconsistent with the policies of the State Lands Commission. However, over the decades Docktown has evolved into a community of Redwood City residents with homes that are naturally affordable. Affordable homes in the Bay Area are extremely limited, leaving Docktown residents with few relocation options. Given the practical challenges of housing affordability, and the lack of Bay Area marina space, relocating Docktown residents within a short timeframe presents a very difficult challenge. As such, the City seeks time to come into compliance.

In recognition of the hardship of relocating residents, along with the City's commitment to increase public access to the area, the City of Redwood City is requesting that the State Lands Commission support a legislative solution. It is our desire to put forward legislation that can both address public trust concerns while acknowledging and helping to avoid the rapid displacement of a naturally affordable community.

Fortunately, there exists precedent supported by the State Lands Commission and the State Legislature to allow an extended period within which to relocate residents such as those residing at Docktown. The attached statute, adopted by the Legislature and supported by the State Lands Commission in 1981, allowed the "DeAnza Point" Mobile Home Park to stay on granted lands for an extended period of 32 years (1981-2003). The statute was adopted in an attempt to balance the hardship of relocating tenants on the one hand with the current public needs for expanded recreational use on the other. It is our desire to achieve a similar resolution to the issues confronting Docktown.

Proposal

The City of Redwood City is requesting that the State Lands Commission support legislation which would allow Docktown to remain on granted lands for a period of 15 years so long as the following conditions were met:

- The City would prohibit new tenants, new live-aboard watercrafts and transfer of existing watercraft at Docktown.
- The City would mandate that all live-aboard watercrafts be owner occupied or City owned, and no subleases would be allowed.

- The City would report to the State Lands Commission on a regular basis on the status of Docktown and public access improvements in the area.

While the City is very supportive of this proposed legislation, it is also important to note that there are environmental and legal restrictions which could hamper the City's ability to provide public or residential uses at Docktown. The City is currently conducting environmental analysis in the Redwood Creek area and may adjust its direction and/or policies dependent upon the results of that analysis. Furthermore, the City does not own the land adjacent to Docktown. Marina access to facilities and in general is accomplished via a month-to-month license with private land owners. As a result, any multi-year plan for the marina use must account for the possibility that the City could not guarantee private residential access to Docktown Marina.

In closing, we thank you for considering this request. We believe this proposal will allow the area to be improved for the benefit of all California residents, while allowing a fair and reasonable amount of time for existing residents to transition to new homes.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Seybert". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John D. Seybert
Mayor
City of Redwood City

C: City Council, City of Redwood City
Senator Jerry Hill
Assembly Member Kevin Mullin