



Legislation Text

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DATE: August 14, 2018

SUBJECT:

PRESENTATION AND UPDATE ON THE SAN DIEGO OCEAN PLANNING PARTNERSHIP: DRAFT PRELIMINARY ASSESSMENT REPORT

EXECUTIVE SUMMARY:

On October 13, 2016, by Resolution #2016-159, the Board of Port Commissioners (Board) approved a Memorandum of Agreement (MOA) with the California State Lands Commission (State Lands) to create a collaborative partnership to gain an understanding of and establish a process to enhance management opportunities to balance the different ocean uses for the state-owned tidelands and submerged lands located in the Pacific Ocean offshore of San Diego County (Attachment A).

This partnership, called the San Diego Ocean Planning Partnership (Partnership), is a pilot project. The Partnership represents State Lands' and the District's commitment to balancing public trust uses in manner that protects, supports, or enhances aspects of commerce, fisheries, navigation, recreation and environmental stewardship and also promotes transparent, robust public engagement during all phases of this pilot project.

State Lands and District staff have been engaging stakeholders and collecting data since the initiation of the pilot project. The stakeholder input and preliminary data collected will culminate into a Preliminary Assessment Report. Future steps for the pilot project will be based and dependent upon information in the Preliminary Assessment Report, as well as further development of an interactive spatial tool, or more appropriately called a "web mapping application." Refer to the attached timeline for an overview of the anticipated process and schedule (Attachment B).

Over 130 stakeholder groups and individuals have been identified to date, and State Lands and District staff have been working together to engage this extensive assortment of stakeholders and learn about ocean uses, challenges, and opportunities. The Draft Preliminary Assessment Report will include observations from stakeholder input including feedback on ocean uses; challenges; benefits and concerns with ocean planning; and applying "lessons learned" from previous planning, permitting, or review processes to this pilot project. The Draft Preliminary Assessment Report update to the Board will build upon the previous June 2018 Board update on "Early Learnings from Stakeholder Input" by introducing the draft Table of Contents and highlighting draft content for the report. The State Lands Commission will also receive a similar update at their meeting in Los Angeles on August 23, 2018.

State Lands and the District anticipate jointly releasing the draft Preliminary Assessment Report for public review and feedback in September 2018.

RECOMMENDATION:

Receive presentation and update on the San Diego Ocean Planning Partnership.

FISCAL IMPACT:

The Planning department's approved non-personnel expense budget for FY18/19 includes funds to support this effort.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A Port with a healthy and sustainable bay and its environment.
- A Port that the public understands, trusts, and values.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A Port that is a safe place to visit, work and play.
- A financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:

The Partnership is a collaborative effort between the State Lands Commission and the District to explore an ocean planning pilot project in State waters off the coast of San Diego County. As first steps of establishing this pilot project, staff from both partner agencies are collecting data and engaging stakeholders to better understand this ocean space and its uses and challenges, and perceptions and previous experiences with other planning processes. The information gathered during data collection and public engagement will be summarized in a Preliminary Assessment Report. As the first deliverable out of this partnership, the Preliminary Assessment Report will provide general observations from what was gathered and how it will inform the next steps of the pilot project. State Lands and District staff have been providing brief and frequent updates to the State Lands Commission and Board over the past year: in March 2018 the State Lands Commission and Board received the first update on the San Diego Ocean Planning Partnership, and in June 2018 the State Lands Commission and Board received an update on "early learnings" and preliminary observations from stakeholder input. Throughout 2018, State Lands and District staff will continue to update the State Lands Commission and Board on the status of the pilot project in anticipation of finalizing the Preliminary Assessment Report at the end of the year.

In this presentation and update to the Board, District staff will present a draft Table of Contents for the Draft Preliminary Assessment Report and will provide a high-level preview of content that will be in the report. State Lands staff will present a similar update to the State Lands Commission on August 23, 2018 at their meeting in Los Angeles. After these presentations, State Lands and the District anticipate jointly releasing the Draft Preliminary Assessment Report for public feedback in September 2018. The partners anticipate holding open houses during the review period to receive additional input (see Attachment B for anticipated milestones for 2018).

As memorialized in the Memorandum of Agreement (Attachment A), both partners are committed to transparent and robust public engagement and decision-making informed by comprehensive data collection and best available science. State Lands and the District are also trustees or grantees of state-owned tidelands and submerged lands and as such, are responsible for managing and balancing uses under the Public Trust Doctrine: commerce, navigation, fisheries, recreation, and environmental stewardship. These are all values and principles that are helping to guide the Partnership. In addition, State Lands' spearheading of this effort and a partnership of this nature is outlined in the State Lands Strategic Plan (adopted in 2015).

Background

California State Lands Commission Strategic Plan

State Lands adopted a Strategic Plan on December 18, 2015. The Strategic Plan equips State Lands to adapt to emerging challenges and opportunities, while creating a meaningful framework to achieve its policy goals. State Lands highly values public engagement, and has developed strategies to foster relationships and maximize coordination and collaboration with other agencies. One of the targeted outcomes of these public engagement strategies is to lead or participate in marine spatial planning in support of State Lands' responsibility as a trustee of Public Trust lands and resources. State Lands' leadership in the Partnership is in alignment with and advances implementation of their Strategic Plan.

San Diego Ocean Planning Partnership

On October 13, 2016, by Resolution #2016-159, the Board approved an MOA with State Lands to form and memorialize a collaborative partnership to gain an understanding of and establish a process to enhance management opportunities for the state-owned tidelands and submerged lands located in the Pacific Ocean offshore of San Diego County. The initial effort established by the Partnership includes stakeholder engagement and data collection.

The pilot project centers on Public Trust uses including commerce, navigation, recreation, fishing, and environmental stewardship. The pilot project is being developed in a comprehensive, adaptive, integrated, and transparent way. It is not a process to create zoning or water use controls in the ocean space. Rather, it is a process that has the potential to reduce conflict, and possibly standardize a process for early engagement and conflict resolution between ocean users by first taking a comprehensive approach to identifying current activities in the ocean space, as highlighted by stakeholders and further discussed below. The pilot project intends to maximize economic, environmental, and societal co-benefits in a manner that is balanced and holistic.

Stakeholder Outreach

State Lands and District staff have identified over 130 stakeholder groups and individuals to be involved in this effort so far, including local, state, and federal agencies, nonprofits, academia, commercial fishing, recreational fishing, local cities, and other ocean user groups. State Lands and District staff have met with and will continue to meet with stakeholders to learn more about their uses and the ocean space. Stakeholder engagement is an ongoing process and there have and will be multiple opportunities for stakeholders to provide input, either through focused conversations, group discussions, or public meetings. In addition to meeting with these stakeholders, State Lands and District staff has engaged with sovereign nation partners, including during a tribal engagement event hosted by State Lands at the UC San Diego, Scripps Institute of Oceanography on July 12, 2018, and staff will continue this conversation throughout the pilot project.

Draft Preliminary Assessment Report

State Lands and District staff will continue to coordinate, share, and combine resources and data to develop a Draft Preliminary Assessment Report. The Draft Preliminary Assessment Report will include frequent observations (listed below), as well as a summary of other, less frequently heard observations, and recommendations for moving forward.

Most of the observations summarized in the report are from focused stakeholder meetings between State Lands and/or District staff and various stakeholder groups or individuals. Typical topical discussions include uses and challenges in the ocean space, as well as previous participation in other planning processes, and “lessons learned” from those experiences. The list below provides examples of questions asked during these discussions and responses to those questions. Note that this is not a comprehensive list of all input received, but rather includes some general, preliminary observations made during stakeholder meetings conducted by State Lands and District staff.

Examples of questions asked by State Lands and District staff and feedback (or “Early Learnings”) received to date include:

Have you previously participated in an ocean planning process or a similar planning process?

- Marine Life Protection Act Initiative (participation as a stakeholder, member of the public, or facilitation of the marine protected area designation process)
- Integrated Natural Resources Management Plan (participation in providing feedback for the creation of this joint document between the Navy and the District)
- Pacific Fisheries Management Council (participation in providing input on projects reviewed by the Council)
- National Environmental Policy Act (participation in the environmental review of projects)
- California Environmental Quality Act (participation in the environmental review of projects)

How do you currently use the ocean space?

- Navigation, security, and safety
- Commercial use (fishing, maritime, etc.)
- Recreation (boating, kayaking, fishing, etc.)
- Conservation and resource management
- Academic research

What are your current challenges with using the ocean space?

- Operational resources (e.g. limited funding to optimize their use of the ocean)
- Difficulty navigating the regulatory landscape
- Environmental conditions (e.g. beach erosion, sea level rise)

What potential benefits do you see for ocean planning?

- Coordination of efforts on regional issues
- Collaboration, cooperation, and communication between stakeholders
- Better access to common information

Do you have suggestions for managing the ocean planning process?

- Have clear and well-communicated vision
- Have a process to resolve potential conflicts
- Make the process inclusive and transparent
- Need to clearly define and describe the goals for the Partnership's effort
- Expand public engagement efforts;

What else would you like us to consider through this process? What should we be concerned with?

- Public outreach (i.e. listen to all voices equally, keep stakeholders informed)
- Balance all uses
- Concerns that ocean planning has the ability to exclude uses and will result in zoning
- Concerns that this process could add another layer of regulation or burden on local jurisdictions
- Identify potential agencies that may require involvement in future processes;
- Consider reducing or extending the boundaries of the area being studied;
- Include existing and varying perspectives of marine spatial planning, both positive and negative;
- Establish a conflict resolution framework model or similar process; and
- Update the MOA to clarify its focus and purpose, including specific clarification that the intent of the pilot project is not to establish zoning for the ocean areas.

As mentioned, the input above is not a comprehensive list of input from all meetings with stakeholders to date, but rather includes general observations. Additionally, the input above is only reflective of stakeholder input received by the District to date. Moving forward, the Preliminary Assessment Report (discussed below) will summarize stakeholder feedback and input received by both State Lands and the District. All stakeholder input received is important and is not prioritized or ranked. Additional stakeholder engagement may result based on feedback received throughout the process.

Table of Contents

In this update and presentation to the Board, staff will outline the anticipated Table of Contents of the Draft Preliminary Assessment Report, which will include sections on:

1. Vision of the Partnership
2. Purpose of the Partnership
3. Intent of the Partnership
4. Partnership Background, covering both State Lands and the District
5. Approach to stakeholder engagement and data collection
6. Preliminary Assessment, which will summarize stakeholder feedback
7. Moving Forward, which will include recommendations based on feedback

Next Steps

Public Review

In September 2018, the Draft Preliminary Assessment Report is planned to be circulated for public feedback. The staff team is considering a series of public events around the county to obtain additional input and feedback from the general public on the Draft Preliminary Assessment Report.

Upon the close of public review, staff will begin finalizing the Preliminary Assessment is planned to be completed by the end of this year.

Web Mapping Application

As a companion to the Preliminary Assessment Report, next steps will also include the development of an interactive spatial tool, or more appropriately called a “web mapping application.” This tool will be a public-facing, web-based site where users can visualize multiple data layers in one place. Throughout this effort, State Lands and District staff will continue to compile relevant data and information, and scientific peer-reviewed data to ensure the use of best available science and data in the application and plan to provide a demonstration of the application later this year for the Board and public.

Periodic updates on the progress of stakeholder outreach and data collection efforts will be presented to both State Lands and the Board throughout 2018. State Lands and District staff will continue to conduct on-going outreach to federal, state, and local agencies, tribes, non-governmental organizations, industry, fishing interests, community organizations, universities, the military and other stakeholder groups.

General Counsel’s Comments:

The General Counsel’s Office has reviewed the agenda sheet and attachments as presented to it and approves them as to form and legality.

Environmental Review:

This presentation to the Board does not constitute a “project” or an “approval” of a “project” under the definitions set forth in California Environmental Quality Act (CEQA) Guidelines Sections 15352 and 15378 because no direct or indirect changes to the physical environment would occur. CEQA requires that the District adequately assess the environmental impacts of its projects. If a project is formulated and CEQA review is conducted, the Board reserves its discretion to adopt any and all feasible mitigation measures, alternatives to the project, including a no-project alternative, a statement of overriding considerations, if applicable, and may approve or disapprove the project and any permits or entitlements necessary for the same. Those decisions may be exercised in the sole and absolute discretion of the Board. Based on the totality of the circumstances and the entire record, this presentation does not commit the District to a definite course of action prior to CEQA review being conducted. No further action under CEQA is required at this time.

In addition, this Board item complies with Section 87 of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operations of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed project is consistent with the Public Trust Doctrine.

Finally, these items do not allow for “development,” as defined in Section 30106 of the California Coastal Act, or “new development,” pursuant to Section 1.a. of the District’s Coastal Development Permit (CDP) Regulations because it will not result in, without limitation, a physical change, change

in use or increase the intensity of uses. Therefore, issuance of a CDP or exclusion is not required. However, the District's projects require processing under the District's CDP Regulations. If a project is formulated as a result of these items, the Board will consider approval of the project after the appropriate documentation under District's CDP Regulations has been completed and authorized by the Board, if necessary. The Board's direction in no way limits the exercise of the District's discretion under the District's CDP Regulations.

Equal Opportunity Program:

Not applicable.

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Attachments:

Attachment A: Memorandum of Agreement with State Lands Commission - Marine Planning Partnership

Attachment B: San Diego Ocean Planning Partnership Timeline