



Legislation Text

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DATE: December 11, 2018

SUBJECT:

PRESENTATION AND ACCEPTANCE OF THE SAN DIEGO OCEAN PLANNING PARTNERSHIP 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) creating a collaborative partnership with the intent of first understanding, then establishing a process for enhancing management opportunities related to, 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 that represents State Lands' and the District's commitment to balancing Public Trust uses in a manner that protects, supports, or enhances aspects of commerce, fisheries, navigation, recreation and environmental stewardship. The Partnership 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 ultimately culminate into two deliverables: the Preliminary Assessment Report and a Web Mapping Application. The attached timeline provides an overview of the process and schedule (Attachment B). The Draft Preliminary Assessment Report was released for public feedback at the beginning of October 2018. During the time that the draft was available, stakeholders provided comments through the Partnership's website and in person during an Open House on October 10, 2018. Since then, State Lands and District staff have worked together to respond to comments and update the report to reflect that feedback.

The Preliminary Assessment Report (Attachment C) includes 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 Preliminary Assessment Report serves as a snapshot in time for the San Diego ocean space by summarizing stakeholder input and provides information to the State Lands Commission and the Board of Port Commissioners that identifies general, potential next steps for the Partnership. The State Lands Commission received a similar presentation on December 3, 2018 and accepted the report then. The State Lands Commission also directed its staff to develop an early engagement framework, with help from sister agencies like the Ocean Protection Council, and to continue to

receive input from stakeholders.

RECOMMENDATION:

Receive presentation and accept the San Diego Ocean Planning Partnership Preliminary Assessment Report.

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:

On October 13, 2016, by Resolution #2016-159, the Board of Port Commissioners (Board) approved a Memorandum of Agreement (MOA) (Attachment A) with the California State Lands Commission (State Lands) to form the San Diego Ocean Planning Partnership, a collaborative effort to explore an ocean planning pilot project in state waters off the coast of San Diego County that can enhance the State Lands submerged lands leasing process. To consider achieving the goals and objectives put forth by the MOA, State Lands and the District (collectively, "Partners") embarked on the first phase of the Partnership, referred to as the "Assessment Phase," to better understand the San Diego ocean space and the concerns, needs, and perspectives of those that use it. The Partners began collecting data and engaging stakeholders to better understand the ocean space, including its uses and challenges as well as to learn from previous experiences with other ocean planning processes. The information gathered during data collection and public engagement culminates into the Preliminary Assessment Report. Further, data collected will also be used to develop a Web Mapping Application, a user-friendly, web-based platform that can visualize multiple coastal and marine-related data layers simultaneously.

In this presentation and update to the Board, State Lands and District staff will present the Preliminary Assessment Report (Attachment C) for the Board's acceptance. The State Lands Commission received a similar presentation on Monday, December 3, 2018 and accepted the report then. The State Lands Commission also directed its staff to develop an early engagement framework, with help from sister agencies like the Ocean Protection Council, and to continue to receive input from stakeholders. Two letters were submitted to the State Lands Commission prior to its December meeting and are included as attachments (see Attachments E and F).

Preliminary Assessment Report

The Preliminary Assessment Report is the Partnership's first major deliverable and represents the end of the Partnership's Assessment Phase, as described above. A draft of the Preliminary Assessment Report was released at the beginning of October 2018 for public feedback. While it was available on the Partnership's website, the Partners hosted an Open House at the District's Administration Building to provide a general overview and background of the Draft Preliminary Assessment Report and to speak with stakeholders in-person about their questions and comments. Stakeholders could also complete surveys (in person at the Open House or online) to answer a standard list of questions that the Partners asked during the focused stakeholder meeting, to ensure that their responses would be recorded and incorporated into the final Preliminary Assessment Report.

The Partnership received eleven survey responses and ten comments (in the form of comment cards at the Open House, submitted letters, and emails) on the Draft Preliminary Assessment Report. Every survey response has been incorporated into Section 4 (the Preliminary Assessment) of the Report and responses to every comment have been provided on a spreadsheet. Generally, the comments requested more transparency about the Partnership's goals and objectives for the first phase and next steps of the pilot project and the details of a conflict resolution process in particular, pointed out how stakeholder outreach and public engagement could be improved, and asked for more involvement and clarification on data collection and the Web Mapping Application. All comments and the response spreadsheet are provided in Attachment D to this agenda sheet, and are also available on the Partnership's website.

The Preliminary Assessment Report also presents a summary of stakeholder input and information gathered since the MOA to provide a general overview of how stakeholders use the ocean space, their challenges and interests in the ocean space, and their perspectives on ocean planning. To gather this information, State Lands and District staff held over 90 focused stakeholder meetings (approximately 30 minute sessions) with various stakeholders and ocean users, including local, state, and federal agencies, nonprofits, academia, commercial fishing, recreational fishing, local cities, and other ocean user groups.

Based on stakeholder input, the Preliminary Assessment Report includes some potential next steps for the Partnership. These next steps are divided into what the Partners together can do through the Partnership (such as periodic assessments and revise the goals of the MOA), what State Lands can do (such as maintain the Web Mapping Application and develop a conflict resolution process for their lease applications through an Early Engagement Framework), and what the District can do (such as continue local outreach). Staff from both Partners will continue to coordinate and collaborate, as well as remain committed to transparency, for whichever next step the State Lands Commission and Board decide to take.

Other sections of the Preliminary Assessment Report include: Purpose, Partnership (about both agencies and the MOA), Approach, and an Appendix. The Preliminary Assessment Report is provided as Attachment C to this agenda sheet.

Background on the San Diego Ocean Planning Partnership

The San Diego Ocean Planning Partnership is a collaborative effort between State Lands and the District that centers on Public Trust uses in the ocean space, including commerce, navigation, recreation, fishing, and environmental stewardship. State Lands and the District are 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 (as listed above). This Partnership is guided by a combination of the mission, values, and principles of the respective agencies and their relationship to the Public Trust. State Lands' initiation of this effort and a partnership of this nature are identified as strategies or the targeted outcomes in the State Lands Strategic Plan (adopted in 2015).

This 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. In addition, the pilot project has the ability to gather relevant, informative ocean data into one, comprehensive application for ocean planning. The pilot project intends to maximize economic, environmental, and societal co-benefits in a manner that is balanced and holistic.

State Lands and District staff have provided brief and frequent updates to the State Lands Commission and Board over the past year, in anticipation of finalizing and accepting the Preliminary Assessment Report at the end of 2018:

- March 2018: The State Lands Commission and Board received the first update on the San Diego Ocean Planning Partnership;
- June 2018: The State Lands Commission and Board received an update on “early learnings” and preliminary observations from stakeholder input;
- August 2018: The State Lands Commission and Board received a presentation on the Draft Preliminary Assessment Report; and
- October 2018: The State Lands Commission and Board received a presentation that previewed the Web Mapping Application.

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 this Partnership is in alignment with and advances implementation of their Strategic Plan.

Next Steps

Next steps include a limited application release of a draft of the Web Mapping Application at the beginning of 2019. The purpose of this limited release is to gather initial feedback on the functionality of the Web Mapping Application and address any software issues. A full public release of the Web Mapping Application is anticipated next year, which will be made available on the San Diego Ocean Planning Partnership's website. A disclaimer and conditions of use agreement for the Web Mapping Application will also be developed and accompany the public release, along with video tutorials and user guides to assist users with the application.

The ocean is continually being researched, measured, and analyzed and new and updated data will

continue to become available. Therefore, the data collection process is ongoing. State Lands staff will continue to maintain and periodically update the Web Mapping Application, and coordinate with District staff to compile and integrate data as it becomes available.

General Counsel's Comments:

The Office of the General Counsel has reviewed and approved this agenda 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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Attachment(s):

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

Attachment B: San Diego Ocean Planning Partnership Timeline

Attachment C: San Diego Ocean Planning Partnership: Preliminary Assessment Report

Attachment D: Spreadsheet Response to Comments on the Draft Preliminary Assessment Report

Attachment E: Letter from coalition of commercial fishing groups for State Lands Commission Agenda Item 76 for 12/3 meeting

Attachment F: Letter from San Diego Fishermen's Working Group for State Lands Commission Agenda Item 76 for 12/3 meeting