

CALENDAR ITEM

87

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03/25/08

PRC 3979.1

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M. Hays

**CONSIDER AN EXTENSION TO CURE DEFAULTS OF A GENERAL LEASE -
COMMERCIAL USE**

LESSEE:

South Bay Yacht Club
P. O. Box 100
Alviso, CA 95002

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Guadalupe River, near the town of Alviso, Santa Clara
County.

AUTHORIZED USE:

Use and maintenance of docking and moorage facilities.

LEASE TERM:

20 years, beginning June 19, 1993.

CONSIDERATION:

\$1,068 per annum, with the State reserving the right to fix a different rent
periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

\$1,000,000 combined single limit.

Bond:

\$4,000.

Other:

Public access to be provided to and through the lease area for the general
public, including non-paying visitors.

PROPOSED EXTENSION:

Consider extending the period to cure the defaults of the lease for one-year
beginning December 13, 2007.

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OTHER PERTINENT INFORMATION:

1. Lessee owns or has the right to use the uplands adjoining the lease premises.
2. At the September 13, 2007 Commission meeting, the Commission considered the termination of a lease with the South Bay Yacht Club (Lessee) for failure to maintain the lease premises in a safe condition and to provide public access as required by the lease. At the September 13th meeting the Commission gave the Lessee 90 days (December 13, 2007) in which to cure the defaults.
3. Staff has been working with and monitoring the Lessee's progress since the meeting in September and the Lessee has taken the following steps to comply with the Commission's direction:
 - a. Submitted a workplan for all repairs and a plan to provide public access;
 - b. Removed the fuel line and unauthorized finger piers;
 - c. Contracted for replacement docks;
 - d. A Salvage contractor has removed silted-in vessels and three derelict vessels will be removed by end of March;
 - e. Submitted an application to SF Bay Conservation and Development Company (BCDC) for a permit for repair work and the unauthorized pilings and dock extension. This application is incomplete awaiting finalization of a lease with the Santa Clara Valley Water District (SCVWD) for the portion of the docks located on the District's property; and
 - f. Consulted with the Department of Fish and Game (DFG) regarding the level of permit required for the removal and long term management of the vegetation.
4. Staff has met with BCDC, DFG and the SCVWD to understand the level of coordination and the length of time needed to complete the permitting process. The vegetation removal must take place in conjunction with the repair work and the removal and long term management of the vegetation will require a DFG Streambed Alteration Permit. This permit requires that a habitat survey and impacts analysis be prepared to determine plant and animal species that may be potentially affected by the vegetation removal and the result of the analysis will determine the level of environmental review and documentation needed before issuing a permit. DFG believes processing this application could take up to one year to complete.

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5. Based on the Lessee's efforts and progress to date and the previously unforeseen time needed to obtain all of the permits, staff is recommending that the Commission extend the period to cure the default of the lease for one year beginning December 13, 2007. This extension takes into consideration the time to obtain the necessary permits and time to complete the vegetation removal and repairs. Staff will continue to monitor the Lessee's efforts during this period.

6. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

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

EXHIBIT:

- A. Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE THE EXTENSION OF THE PERIOD TO CURE DEFAULT OF LEASE NO. PRC 3979.1, A GENERAL LEASE – COMMERCIAL USE, FROM DECEMBER 13, 2007 TO DECEMBER 12, 2008.

