CALENDAR ITEM
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		PRC 4485.1
S	4,6	M. Clark

CONSIDER TERMINATION OF A MONTH TO MONTH TENANCY, DENIAL OF AN APPLICATION FOR A GENERAL LEASE – COMMERCIAL USE AND AUTHORIZATION OF LITIGATION FOR EJECTMENT

APPLICANT/PARTY:
Richard Sorenson
dba Rio Ramaza Marina
P.O. Box 203
Citrus Heights, California 95611

AREA, LAND TYPE, AND LOCATION:
Sovereign land in the Sacramento River, adjacent to 10000 Garden Highway, near the town of Verona, Sutter County.

AUTHORIZED IMPROVEMENTS: Walkways, floating docks, launching facilities and pilings.

CONSIDERATION:
Five percent of gross revenue derived from berthing, launching and merchandise sold, against a $1,700 minimum annual rental paid in advance on August 1 of each year of the lease; and one cent per gallon of fuel sold up to 100,000 gallons and one and one-half cents per gallon in excess of 100,000 gallons.

INSURANCE:
Combined single limit liability Insurance of $500,000.

SURETY BOND:
$5,000

BACKGROUND:
Tha authorized improvements comprise the Rio Ramaza Marina. The lease is currently in holdover status on a month to month tenancy on the same terms and conditions as the original lease.

On July 30, 1970, the Commission authorized a General Lease – Commercial Use to 4-Jay Investments, Inc., doing business as Rio Ramaza Marina, for a 25-year term beginning on November 21, 1969. On January 24, 1980, the lease was amended to update the lease form, annual rent, and provide for a new 20-year term beginning August 1, 1979. Two additional amendments to the lease occurred in 1981 and 1984 to revise the lease area. Some time prior to 1999 the fuel pumps were disconnected and removed at the request of Sutter County. The lease expired on July 31, 1999 and went into holdover status.

In July 1999, 4-Jay Investment, Inc., submitted an application for a new General Lease – Commercial Use. Application processing was delayed due to a pending sale of the marina to Ron Sorenson, which eventually took place on September 3, 1999. Shortly after the sale of the marina, Commission staff notified Mr. Sorenson and his manager that a new lease would be required for the marina facilities to remain on the lease premises. Between 1999 and 2008 staff continually attempted through letters, telephone calls, and site visits to obtain a lease application and bring Mr. Sorenson under lease. During that period, Mr. Sorensen continued to make sporadic rent payments and continued to keep insurance coverage in place while eventually making periodic rent payments through the years. Commission staff continued to invoice for rent and has accepted rent through the years.

Finally, in October 2008, Mr Sorenson submitted an application, along with the requested $6,000 application processing fee for a commercial lease application. At the time Mr. Sorenson owed outstanding rent, including penalty and interest for the period of August 1, 2006 through the then current lease year of August 1, 2008 - July 31, 2009. Staff informed Mr. Sorensonr that in order to process the application for Commission consideration, the back rent must be addressed and required the $6,000 processing fee to be applied to the outstanding rent to which Mr. Sorenson agreed. Staff then requested an additional $3,000 to cover the remaining application processing costs.

At the time, Mr. Sorenson's manager notified staff that most of the docks that were in disrepair had been removed for repair and that they would be replaced over the next few years. Site visits confirmed that only four of the original 12 uncovered floating boat docks remain, but that there are approximately 60 exposed pilings left over from the eight docks that were removed. Staff requested a repair plan as part of the application process.

Throughout the later part of 2008 and 2009, staff repeatedly sent letters and made calls to both Mr. Sorenson and his manager to again request that they proceed with providing the needed information to complete the lease application process. To date, Mr. Sorensen has not paid the outstanding annual rent for the

period August 1, 2009 to July 31, 2010 in the amount of $2,091 which includes penalty and interest.

Despite the fact that the prior lease was not assigned to Mr. Sorenson and that he has not completed the application Process for a new lease, Mr. Sorenson is considered to be in a month-to-month holdover tenancy on the prior lease because the Commission has accepted rent from him in the past.

Because of the circumstances that have occurred over the past ten years, staff's continued good faith attempts to bring Mr. Sorenson under lease and his failure to complete the lease application process, the attempted assignment of lease in holdover from the former Lessee 4-Jay Investment Inc, and the non-payment of rent under the terms of the lease, staff considers the lease to be in default. On July 14, 2010, Mr. Sorenson was sent formal notice of staff's intent to place this matter on the next Commission agenda for consideration for non-payment of rent, to deny the application and seek authority from the Commission for staff and/or the Attorney General to take all necessary steps, including litigation, for ejectment, and removal of all facilities and improvements.

In response to our July 14th letter, Mr. Sorenson met with staff on July 27th to discuss his ability to cure the outstanding rent; provide the funds necessary to cover staff costs to process an application; and maintain a lease and the lease premises. Because of Mr. Sorenson's past inaction, staff believes that it is in the Commission's best interest to delegate to staff the ability to take legal action if Mr. Sorenson fails to perform as he assures staff he will do. As of the posting of the agenda, staff has not received any funds. However, if he takes steps to move forward and obtain a new lease, staff will work with Mr. Sorensen to bring an application to the Commission in the future.

OTHER PERTINENT INFORMATION:

1. Applicant/Party owns the uplands adjoining the lease premises.

2. Pursuant to the Commission's delegation of authority and 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 CEQA because it is not a "project" as defined by CEQA and State CEQA Guidelines.

   Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.3

EXHIBITS:

A. Site and Location Map
B. Land Description

RECOMMENDED ACTION:
It is recommended that the Commission:

CEQA FINDING:

Find that the activity is not subject to the requirements of 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.

AUTHORIZATION:

1. Authorize staff to terminate the month-to-month tenancy of General Lease – Commercial Use, Lease No. PRC 4485.1, if the applicant fails within 60 days to complete the lease application process including submission of application processing fees; submission of a detailed repair plan; and payment of accrued back rent plus penalty and interest.

2. Authorize staff of the State Lands Commission and the Office of the Attorney General to take all steps necessary, including litigation, to eject Richard Sorensen; to seek removal of all improvement from sovereign land in the Sacramento River as shown on the attached Exhibit A, as described in Exhibit B; to restore the sovereign lands at this location to their condition prior to placement of improvements; and to recover the Commission's damages and costs including unpaid back rent, penalty and interest upon failure of the applicant to comply with the conditions authorized in paragraph 1 above.