

MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

OFFICE OF LIEUTENANT GOVERNOR GAVIN NEWSOM
STATE CAPITOL
ROOM 1114
SACRAMENTO, CALIFORNIA

MONDAY, OCTOBER 1, 2012
10:05 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

APPEARANCES

COMMISSION MEMBERS

Mr. John Chiang, State Controller, Chairperson,
represented by Mr. Alan Gordon

Mr. Gavin Newsom, Lieutenant Governor, represented by Mr.
Chris Garland

Ms. Ana J. Matosantos, Director of Finance, represented by
Mr. Pedro Reyes

STAFF

Mr. Curtis Fossum, Executive Officer

Ms. Jennifer Lucchesi, Chief Counsel

ATTORNEY GENERAL

Mr. Joe Rusconi, Deputy Attorney General

ALSO PRESENT

Ms. Alison Madden

INDEX

	<u>PAGE</u>
I OPEN SESSION	1
II CONFIRMATION OF MINUTES FOR THE MEETING OF AUGUST 14 AND 20, 2012	1
III EXECUTIVE OFFICER'S REPORT	2
IV CONSENT CALENDAR - NONE	
V INFORMATIONAL	
THE FOLLOWING ITEM IS INFORMATIONAL ONLY AND WILL BE DISCUSSED AND ACTED UPON IN A CLOSED SESSION.	
01 The Commission may consider personnel actions to appoint, employ or dismiss a public employee as provided for in Government Code Section 11126(a)(1).	13
VI REGULAR CALENDAR - NONE	
VII PUBLIC COMMENT	2
VIII CLOSED SESSION	13
Adjournment	13
Reporter's Certificate	15

1 Minutes are unanimously adopted.

2 Mr. Fossum, what is the next order of business?

3 EXECUTIVE OFFICER FOSSUM: Well, I wasn't
4 planning on saying much at this point, but I would like to
5 make a couple of comments. State Lands Commission lost a
6 couple of friends of family or family members this last
7 month. Jan Stevens, who was an assistant -- Senior
8 Assistant Attorney General and represented the Commission
9 for many years, and, in fact, is on our staff now as a
10 retired annuitant, his son, Chris Stevens, was the
11 Ambassador to Syria and was killed, as we all know --
12 Libya, excuse me, was killed this last month. And so we
13 wanted to acknowledge that.

14 And secondly, Peter Pelkofer, another attorney in
15 our office, who's a retired annuitant, formerly a Deputy
16 Controller -- in fact, his office was right over here for
17 many years. He sat on the Commission as a alternate to
18 Ken Cory when he was Controller -- his wife just passed
19 away, Marilyn. And Marilyn had also been an employee for
20 the Commission back in the 1980s. So I just wanted to
21 make sure the Commissioners know that.

22 And that concludes my remarks.

23 ACTING CHAIRPERSON GORDON: We do have a member
24 of the public who would like to speak before we go into
25 closed session.

1 Ms. Madden.

2 MS. MADDEN: Yes. Thank you. I thank you for
3 having me. And my name is Alison Madden. I am here on
4 behalf of myself and as a resident of Pete's Harbor in
5 Redwood City. I happen to be an attorney. I work for HP
6 and I went to Hastings quite some time ago.

7 And I just wanted to bring to the attention of
8 the Commission in person a development that is on a fast
9 track right now, and there's history with the State Lands
10 Commission with this property. And I just wanted to see
11 if the Commission could look into it, and see if what is
12 planned and intended on a very fast track is consistent
13 with the settlement and the lease for Pete's Harbor.

14 So as many people may know or remember in the
15 late seventies, the California State Lands Commission sued
16 Peter Uccelli with an allegation of a cloud of title. And
17 it was in the court system for several years. The people
18 of Redwood City, on the other side of 101, considering it
19 a historic landmark and really liking Pete, did a Save
20 Pete's Harbor campaign. They had bumper stickers. They
21 had petitions.

22 And ultimately, with the show of support and with
23 Pete being who he was and everyone still very much admires
24 him, emergency legislation was passed in 1983, that in a
25 6-page act of the California statutes granted him title.

1 It also had very specific metrics for what is still
2 Commission land under the Public Trust, and that is the
3 Smith Slough, which goes in between -- looks right over to
4 the open space, Bair Island, that's being restored. And
5 that's under, I believe, Peninsula Open Space Trust. It's
6 under some trust, a very large wetlands, and the
7 liveaboard community has been there since the fifties.

8 And so in 1983, that Act of the State Legislature
9 deeded the land to Pete. He has since died. He died in
10 2005 and his wife still lives there, that's Paula Uccelli.

11 And consistent with that Act, there were leases
12 that were to be entered into with the California State
13 Lands Commission for the outer harbor. And it was to be
14 used for a public harbor and a marina, and not to be
15 discontinued. If the use was discontinued, I believe the
16 lease expires. That's my reading so far. There's a lot
17 to get through.

18 But the voters of Redwood City in 2004 they voted
19 down a very massive planned development community. The
20 development community had the support of Anna Eshoo and
21 Jackie Speier and quite a few local politicians. And the
22 reason it was voted down is it was just too much, very
23 large sky rises, and, you know, a little too much
24 development. But the proposal there under Pete when he
25 was alive is that the liveaboard community, the harbor and

1 marine, stay as it was. And I believe that's why it had
2 the support.

3 It was specifically mentioned to be affordable
4 housing, and to be really a unique flavor to that part of
5 the community. And so the voters, in any event, they
6 voted the measure down.

7 Since then, the developer has come back but
8 only -- he came back in 2005. He withdrew his plans in
9 2008. It's an out of state developer called The Pauls
10 Corporation. And they've come back in late July of 2012
11 with no public comment that people are aware of at all,
12 and filed a request to develop a massive monolithic luxury
13 condominium residences there. And the residents are not
14 opposed to some residential development at all, not even
15 upscale. Right next door there's a beautiful Bair Island
16 Marina. It's kind of broken to the eye. It's a nice
17 color. It kind of blends in.

18 This is a big white monolithic 5-story structure
19 with a 5-story parking garage, and I think 10 buildings.
20 They're luxury condominiums. The harbor and marina would
21 be closed to the public and only available to individuals
22 who could buy a condo or lease these very expensive
23 residences.

24 Typically, there's been a 5 or 10 percent
25 affordable community, but this developer down the road has

1 gotten exemptions to that, and those low income are across
2 the highway. So it is not for the kind of people that are
3 living there now.

4 They have filed that in late July. They're going
5 mid-October for what they consider to be a final enough
6 approval to kick the residents out by January of 2013, all
7 of the liveaboard, some of whom have been there 30 years.

8 And we have serious questions, because down the
9 road at one marine as you come around Whipple Avenue
10 there, they ejected 500 slips from Peninsula Marina.
11 Those people were gone. They didn't start construction
12 till at least 5 years later. They are in development now.
13 They are selling those, and there are no new slips, like
14 they said there would be.

15 And so right now everyone would have to leave
16 Pete's in January of 2013 in the middle of winter with no
17 where to go. There's long waiting lists. There's BCDC --

18 ACTING CHAIRPERSON GORDON: Are these people
19 living -- is this kind of like marine, where people are
20 living on --

21 MS. MADDEN: Yes.

22 ACTING CHAIRPERSON GORDON: When you're saying
23 marina, people are living -- these are houseboats?

24 MS. MADDEN: Yeah. They're not all floating
25 homes and there's a distinction, but they are all

1 houseboats. And the rule at Pete's is that they have to
2 be moveable, and they are moveable. It's very populated.
3 It's a very professional community. There are Vietnam
4 vets there. There are, you know, people that really do
5 need -- there are single working mothers, like myself.

6 You know, there are people running start-up
7 Internet businesses. It's a very eclectic -- people who
8 have worked at NASA. And so it's very, very clean. It's
9 very green. It's very much a safe community.

10 The people, we have started out there with a
11 petition, and the voters are angry. So we will be going
12 to the Redwood City Council and the Planning Commission
13 meeting and saying the voters don't know about this. They
14 think they voted down large residential luxury development
15 here. And in any event, they wanted to save Pete's
16 harbor. And it was Pete's inclusion that that harbor with
17 liveaboards continue.

18 Under this plan, several years later and after
19 his death, everyone would be ejected. And there's really
20 no guarantee that slips would be built there again. So I
21 wanted to relay the information, and I wanted to ask that
22 the Commission look at the leases, look at the Act, you
23 know, look at the settlement, and, you know, perhaps
24 determine if there's a way this should be slowed down or,
25 you know, maybe get an opinion of the Commission.

1 CHIEF COUNSEL LUCCHESI: If I may, Mrs. Uccelli
2 and her representatives did come up to meet with us about
3 2 weeks ago, I think, to talk about this development. And
4 so staff is looking at the leases and the settlement and
5 the legislation to understand better what's going on out
6 there and how that interplays with the leases that the
7 Commissions has.

8 So we are doing that and we are aware of the
9 consideration in mid-October of this project. And so we
10 have that in mind as we're reviewing it.

11 MS. MADDEN: Thank you. I appreciate that.

12 ACTING COMMISSIONER GARLAND: When in mid-October
13 is that action supposed to take place, and is it before or
14 after our next meeting?

15 MS. MADDEN: It's before the next meeting. We
16 understand that there's an October 8th City Council
17 meeting and an October 9th special Planning Commission
18 meeting. And then there is another Planning Commission
19 meeting, we believe, on the 16th, at which we expected
20 this to arise. We do -- there are dozens, if not by the
21 time we go there hundreds, of members of the public that
22 are willing to go. And these are voting members of the
23 public, who are very upset, who feel that they voted on
24 this, and who are not aware that those are going to be
25 private slips and everyone will be kicked out. Nobody is

1 aware of that. And when I petitioned in downtown Redwood
2 City, everyone was stopping, married 60-year old couples,
3 gay couples, you know, every spectrum of the population
4 stopped and talked to me. Friends of Paula when I told
5 them the whole story, they signed the petition, even
6 friends and supporters of hers.

7 ACTING COMMISSIONER GARLAND: And remind me again
8 when our next official --

9 EXECUTIVE OFFICER FOSSUM: The 19th.

10 ACTING COMMISSIONER GARLAND: The 19th, so it
11 would be after all of these meetings.

12 CHIEF COUNSEL LUCCHESI: Yeah, but that wouldn't
13 stop staff from sending a letter, if we thought that this
14 proposed development was inconsistent with the terms of
15 the lease. Staff could send a letter to both the Planning
16 Commission and the project proponents expressing those
17 concerns.

18 ACTING COMMISSIONER GARLAND: And do we expect
19 that staff will have enough time to review all of the
20 issues and make a determination?

21 CHIEF COUNSEL LUCCHESI: I hope so, yes.

22 (Laughter.)

23 CHIEF COUNSEL LUCCHESI: Yes, that's our goal.

24 ACTING COMMISSIONER REYES: The train is moving.

25 CHIEF COUNSEL LUCCHESI: And we understand the

1 time constraints.

2 ACTING CHAIRPERSON GORDON: Should we notice this
3 now, at a minimum, an informational hearing --
4 informational item for the October 19th hearing?

5 EXECUTIVE OFFICER FOSSUM: We can decide that, I
6 think. I mean, the notice won't go out until another week
7 or 2.

8 ACTING COMMISSIONER REYES: I think we want to --
9 so I think, at some point, either it went through, it
10 didn't go through, it stopped or staff did this.

11 EXECUTIVE OFFICER FOSSUM: We can keep the
12 Commissioners --

13 ACTING COMMISSIONER REYES: Appraised of what's
14 going on.

15 EXECUTIVE OFFICER FOSSUM: -- apprised as well in
16 the interim.

17 CHIEF COUNSEL LUCCHESI: Yes.

18 MS. MADDEN: And it's very important -- the
19 residents feel like it's very important that they want
20 communicated that they understand the rights of Mrs.
21 Uccelli on quite a bit of land here. They're could be
22 houses. There could be restaurants. Right now, there's a
23 huge part of it that's being used for mini-storage. And
24 clearly, there's a better use than mini-storage for this
25 beautiful land.

1 But what we're contesting is the harbor area, and
2 the entire Smith Slough, the bath house, the restaurant is
3 all right along there, and really could be segregated.
4 And I think that just an analysis that looks at that, it
5 is a potential violation of the lease, which ultimately a
6 court, of course, could look at, and which is probably
7 people are motivated enough to do.

8 ACTING CHAIRPERSON GORDON: Wasn't -- and I'm
9 trying to now kind of track my Save the Bay
10 correspondence. Wasn't there a massive development
11 proposed for Redwood City that had just been --

12 EXECUTIVE OFFICER FOSSUM: It still is.

13 ACTING CHAIRPERSON GORDON: Is this the Cargill
14 thing that's still out there?

15 EXECUTIVE OFFICER FOSSUM: It's on the other side
16 though.

17 ACTING CHAIRPERSON GORDON: And that --

18 EXECUTIVE OFFICER FOSSUM: South.

19 ACTING CHAIRPERSON GORDON: -- in many ways is
20 environmentally damaging as it does have a component of
21 moderate -- low and moderate income housing in it. This,
22 as I'm understanding it, and one of the arguments that
23 those developers have used is the lack of affordable
24 housing in the Bay Area.

25 You take another location that should be mixed

1 use, at some level, and turn it into an exclusive luxury
2 condo doesn't strike to me something that we would be
3 particularly supportive of, if we have legal grounds for
4 moving in a different direction.

5 CHIEF COUNSEL LUCCHESI: The Commission's leases
6 are only over the water-covered areas. And that was by
7 virtue of the legislative act that was then reiterated in
8 a stipulated judgment. So the dry land is all privately
9 owned.

10 ACTING CHAIRPERSON GORDON: So we might not have
11 all that much to say about it.

12 CHIEF COUNSEL LUCCHESI: I think -- but Ms.
13 Madden's concerns is that --

14 ACTING COMMISSIONER GARLAND: Unless it limits
15 our access.

16 CHIEF COUNSEL LUCCHESI: Exactly.

17 MS. MADDEN: I think there's access and there
18 is -- you know, the harbor and the marina exist, and it is
19 to be used. All through the Act and the lease of the
20 settlement is for the public, accessible to the public,
21 and not really to be turned into a private development,
22 that only if you live there, you get a slip.

23 I mean, it's kind of the essence between private
24 and public. And I know that there were, you know, pilings
25 at the restaurant on the -- you know, on the State's

1 boundary, and he was permitted to put a berm, and which
2 now has the bath housing. Even though some sliver of this
3 the dry land is Pete's Harbor, ultimately, if there's some
4 kind of settlement, some kind of leverage, you know, it
5 would be nice to see if the community, with whatever
6 support that we did have, and we've got a lot of people
7 out there talking to the people who supported keeping
8 Pete's Harbor as the kind of -- it really probably
9 qualifies as a historic landmark. If somebody had applied
10 for that, it would have that designation.

11 It's got that flavor. It's got that history.
12 And the people of Redwood City want it. We understand
13 Redwood City is a different jurisdiction than you are, but
14 there's just the background.

15 ACTING COMMISSIONER REYES: Well, it's not an
16 action item, so I don't think we vote on it. It's just
17 informational. And staff will do the staff work
18 administratively on the work that needs to be done.

19 ACTING CHAIRPERSON GORDON: Agreed.

20 ACTING COMMISSIONER REYES: Thank you.

21 ACTING CHAIRPERSON GORDON: Appreciate it.

22 MS. MADDEN: Thank you.

23 ACTING CHAIRPERSON GORDON: That concludes the
24 open meeting. We're going to now adjourn into closed
25 session and clear the room.

(Thereupon the California State Lands
Commission meeting adjourned at 10:17 a.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing California State Lands Commission meeting was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California;

That the said proceedings was taken before me, in shorthand writing, and was thereafter transcribed, under my direction, by computer-assisted transcription.

I further certify that I am not of counsel or attorney for any of the parties to said meeting nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of October, 2012.

JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
License No. 10063