



MINUTES

HARBOR COMMISSION

**Thursday, May 23, 2019
Room B7, Lower Level
2000 Main Street
Huntington Beach, CA 92648**

WILLIAM LARKIN, Chair
MICHAEL VAN VOORHIS, Vice Chair
ALFRED BALITZER, Board Member
RENEE HUNTER, Board Member
KIMBERLEY MILLIGAN, Board Member
JOHN OCHS, Board Member
CRAIG SCHAUPPNER, Board Member

STAFF

ERIK PETERSON, Councilmember Liaison
LYN SEMETA Councilmember Liaison
CHRIS SLAMA, Community Services Manager
CARRIE GONZALES, Administrative Assistant

MEETING ASSISTANCE NOTICE: In accordance with the Americans with Disabilities Act, services are available to members of our community who require special assistance to participate in public meetings. If you require special assistance, 48-hour prior notification will enable the City to make reasonable arrangements for an assisted listening device (ALD) for the hearing impaired, American Sign Language interpreters, a reader during the meeting and/or large print agendas. Please contact the City Clerk's Office at (714) 536-5227 for more information, or request assistance from the staff or Sergeant-at-Arms at the meeting.

PUBLIC COMMENTS: To address the legislative body on items of interest not scheduled for public hearing, *Request to Speak* forms will be made available at the meeting and are collected by the staff or Sergeant at Arms. Some legislative bodies may provide different *Request to Speak* forms for public hearing items.

AUDIO/VIDEO ACCESS TO BROADCASTED MEETINGS: City Council and Planning Commission meetings are televised live on HBTv-3 Channel 3, and can be viewed via live or archived website at <https://huntingtonbeach.legistar.com>.

CALLED TO ORDER – 5:00 PM**PLEDGE OF ALLEGIANCE****ROLL CALL**

Present: Larkin, Milligan, Ochs, Van Voorhis

Absent: Balitzer, Hunter, Schauppner

Staff Present: Semeta, Knight, Slama, Gomez

PUBLIC COMMENTS – NONE**ADMINISTRATIVE ITEMS****A) Approval of Minutes**

A motion was made by Van Voorhis, seconded Milligan to approve the meeting minutes dated April 25, 2019.

The motion carried by the following vote:

AYES: Larkin, Milligan, Ochs, and Van Voorhis

NOES: None

ABSENT: Balitzer, Hunter, Schauppner

B) Presentation on Safety and Enforcement in the Harbor:

Kelly Rodriguez, Assistant Police Chief, HB Police Department

Neil Hove, Station Commander, Sunset Station

Chris Corn, Bureau Commander, OC Sheriff Dept., Harbor Patrol, services all 3 harbors

Mike Baumgartner, HB Marine Safety, provides service on the coast and beaches

John Haight, Lieutenant, HB Police Department

Mark Daggett, Operations Chief-HB Fire Department, oversees firefighters and paramedic on land

Jimmy Hoang, Code Enforcement, oversees code enforcement

Jennifer Villasenor, Community Development Department, role is to help businesses, property owners, renters and tenants with permits on private land

Rodriguez said that in the City entered into a partnership with the County in 1985 that outlined the responsibilities of each agency. Part of the reason for today's meeting is to review the jurisdictions of each agency and enforcement processes. Once the Commission been provided this information and make recommendations for improvements or changes, the agreement will be looked at for updates.

Rodriguez presented a PowerPoint regarding the partnership between the City of Huntington Beach and the County of Orange Sheriff's Department with regard to safety and enforcement within our waterways and harbors.

The basic rule of thumb for the partnership is as follows:

- If an incident or situation occurs that needs assistance on land or at the dock, the HB Police, Marine Safety, Fire or Fire Med will be responsible.
- If an incident or situation occurs on the water, the responsibility is that of the Orange County Sheriff's Department, Harbor Patrol.

Various scenarios were discussed to show the process by which each agency is involved. If a situation takes place on the water and then transfers to land, the initial agency will hand the matter over to the appropriate agency. For instance, if an accident happens at sea, the OC Sheriff will assist the injured person and bring them to shore where HBPD and Fire Med will be waiting to take over and render aid or transport the injured. Rodriguez also provided examples of code enforcement issues and reasons for citations. Discussion ensued on the online businesses that rent and drop off water equipment (kayaks, paddleboards, etc.) or conducting classes on the smaller harbor beaches. Rodriguez said that the Police Department receives complaints regarding the kayaks and paddleboards lining the shoreline and blocking access to the beaches. Knight said that the Office of Business Development, along with the Community Services Department is working together to address this issue and cease and desist letters have been sent to the businesses.

Villasenor presented the second half of the PowerPoint, discussing the California Coastal Act, which established policies for coastal protection and development through action by state and local governments. The City's first coastal program was certified by the Coastal Commission in 1985, which included coastal zones. The City has jurisdiction over all certified areas of the coastal zone except tidelands, submerged lands, or navigable waterways. Non-certified areas include Brightwater and Sunset Beach. The City's Local Coastal Program mirrors the policies of the Coastal Act. Ochs asked about tidelands. Villasenor said that Bolsa Chica, the wetlands, and any area next to a body of water is considered a tideland.

Rodriguez concluded and opened the floor to questions:

Larkin questioned who to call first if it is not a firm case of "if you can walk to it; or if you can swim to it" issue. Rodriguez said to start with the HBPD if unsure. Larkin also asked how the process applies to a spill in the water. Hoff answered that it would be reviewed for the material type and location. The appropriate department or agency would then be contacted. If the OC Sheriffs were unable to handle the situation, they would contact the Coast Guard for assistance. Discussion continued on jurisdictions, environmental issues, and the Coastal Commission process.

Van Voorhis asked about the process for reporting and managing boats that are unseaworthy. Corn replied that the Sheriff's Dept. would handle an abandoned boat, expired registration, or destruction of a vessel. If a boat is no longer wanted, the Sheriff's department can destroy it with the help of a State grant. Code Enforcement would oversee "eye-sore" or listing vessels for violations. If there are no violations, nothing can be done. Leaking fluids is a law violation and can incur various fines.

Discussion continue with questions about "live-aboard" situations. Rodriguez said that it is against Huntington Beach code to live aboard a boat and it can be addressed if reported, however, there are other areas, such as Sunset Aquatic and Seal Beach Marina, where live-aboard is allowed.

Semeta asked about security cameras that were installed at Davenport Beach private residence. Knight said that the department is aware of the cameras. The owner has them pointed at the street, his property and the bridge jump area to discourage the jumpers from hanging or climbing onto his boat or dock. Knight hopes that should a serious crime happen within the cameras view, that the owner will share the footage.

C) Future Agenda Items

Knight outlined the agenda items for June and July. Potential Ad Hoc Committees will be discussed to determine areas of interest for the Commission and the prioritization of subjects. Knight informed Commissioners that the Ad Hoc committees are not subject to the Brown Act requirements. Knight also reported that the State Lands Department, who will present information in July, was in Huntington Beach to cite property owners for encroachment. Property owners were provided with warnings in advance by notices and postings. Most came into compliance before citations were necessary. Discussion continued on the process of encroachment notification, the process, and compliance.

1. June:
 - o Municipal Code 2.65 – Harbor Commission discussion
 - o Prioritization of Subjects and potential Ad Hoc Committees to Address Issues and Prioritize Subjects
2. July:
 - o State Lands Commission will discuss their operation as it pertains to the Harbor

COMMENTS – Larkin announced the Newport Harbor meeting and referred to the attachment information on a block grant.

ADJOURNMENT – At 6:03 pm to the next regularly scheduled meeting of the Harbor Commission on Thursday, June 27, 2019, at 5:00 PM in meeting room B-7, lower level of the Civic Center, Huntington Beach, California.

DRAFT

CALIFORNIA STATE LANDS COMMISSION

**UNAUTHORIZED
STRUCTURE**

The State acquired the Main and Midway Channels of
Huntington Harbour in 1961
(Orange County Recorder's Office, Book 5611, Page 462)

**THESE STRUCTURES HAVE NOT BEEN
AUTHORIZED BY THE COMMISSION**

Failure to apply for a lease from the Commission
may result in administrative penalties (Public
Resources Code § 6224.3) and civil damages (Public
Resources Code § 6224.1), and is a misdemeanor
(Public Resources Code § 6303.1)

For additional information please contact:

Kelly Connor
(916) 574-0343

100 Howe Ave., Ste. 100-S, Sacramento, CA 95825

DATE POSTED 5/21/19

BY

Kelly Connor



SHORT - FORM APPLICATION FOR LEASE OF STATE LANDS

SLC 400.33 (Revised 01/19)

IDENTIFICATION OF APPLICANT AND CONTACT INFORMATION

Notice to natural persons:¹ This page will be separated from the application and treated as personal information under the Information Practices Act. See Privacy Notice in Attachment A to this application.

1. Applicant:

Name:		
Mailing Address:		
City:	State:	Zip:
Phone:	FAX:	
E-mail Address:		

2. Applicant's authorized agent or representative (if any):

Name:		
Mailing Address:		
City:	State:	Zip:
Phone:	FAX:	
E-mail Address:		

☐

If you are ***an elected or appointed official*** as specified in Government Code section 6254.21, check this box. If you do not check this box, by signing this application you are deemed to have given consent to have your home address (when it is the project location) posted on the Internet.

Title: _____

Agency or Branch of Government: _____

INSTRUCTIONS TO COMMISSION STAFF: *Separate this page from the rest of the application and place in a CONFIDENTIAL ENVELOPE.*

¹ "Natural Persons" means individuals but does not include trusts, corporations, or other business entities.

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ALL APPLICANTS ARE REQUIRED TO COMPLETE PARTS I, II AND III. Please answer all questions to the best of your availability. Staff of the Land Management Division are available to assist you with any questions you may have related to this application: 916-574-1940.

PART I: General Data

SECTION A: Identification of Applicant

1. Applicant(s):

Legal Name (as it appears on property title):

2. Applicant's authorized agent or representative (if any):

Name:

The agent or representative must submit written evidence of their authority to act on behalf of the applicant. A letter or email from the applicant is sufficient.

3. Who should receive correspondence relevant to this application? (Check one only)

☐ Applicant(s)

OR

☐ Authorized agent or Representative

SECTION B: Legal Status of Applicant

Instructions:

Indicate the applicant's legal status and submit any required information

☐ INDIVIDUAL(S)

☐ TRUST(S): Attach a copy of the trust agreement(s) and all amendments, if any.

☐ CORPORATION, PARTNERSHIP, or LIMITED LIABILITY COMPANY: Attach a Certificate of Incorporation; Articles of Incorporation and/or By-Laws; partnership statement and partnership agreement; or Articles of Organization and Certificates of Amendment. NOTE: Additional information may be requested.

☐ PUBLIC AGENCY: Submit evidence of the authority of the official(s) to execute contracts together with a resolution or other document authorizing execution of the appropriate lease or permit. Some public agency leases may qualify for rent reduction or exemption. Submit a written statement detailing the statewide, as compared to primarily local, public benefit if you wish a determination as to whether a rent reduction or exemption is appropriate. Leases for "School Lands" cannot qualify for rent-free status. Contact Commission staff for more details.

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- ☐ **OTHER:** State the nature, membership and other particulars regarding the legal status of applicant. Provide legal documentation establishing the authority of applicant to enter into the requested transaction, and designating who is authorized to act on behalf of applicant.

SECTION C: State Land Location

Address or Assessor's Parcel Number (APN) of State Land or Nearest Adjoining Property. If APN is unknown, provide the Township, Range, Section and Reference Meridian.:	
County:	City:
Waterway (if State Land is in or near a Waterway):	

SECTION D: Type of Authorization Requested

- Please check the type(s) of activity for which you are seeking Commission authorization (check all that apply):
 - ☐ Recreational (Personal uses that do not generate income. Improvements are typically used by the adjacent upland owner such as docks, piers or buoys.)
 - ☐ Protective Structure (Riprap, revetments, seawall, groins, jetties, breakwaters, bulkheads, etc.)
 - ☐ Public Agency (Local, State or Federal agencies that provide substantial public benefit such as public roads or bridges)
 - ☐ Right-of-Way (Uses such as roadways, power lines, conduits, pipelines or outfall lines)
 - ☐ Grazing or other Agricultural Use
 - ☐ Dredging (Please check this box if any portion of the application involves dredging.)
 - ☐ Other (please describe): _____
- Please indicate the authorization you are seeking (check all that apply):
 - ☐ Proposed new use of state-owned land (New construction and/or new activity)
 - ☐ Continued use of state-owned land not previously under lease (Existing use, facilities or improvements, but no prior lease, no new construction or activity)
 - ☐ Renewal² of an expired lease. Lease File No. PRC_____

² As used here and throughout this application, the term "renewal" refers to a new lease, on new terms, issued after a prior lease ends or is terminated.

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- ☐ Renewal of a lease that has not yet expired. Lease File No. PRC _____
- ☐ Amendment of an existing lease. Lease File No. PRC _____
- ☐ Sublease of an existing lease. Lease File No. PRC _____
- ☐ Consent to encumber an existing lease. Lease File No. PR _____
- ☐ Assignment of an existing lease. Lease File No. PRC _____
- ☐ Other (please describe): _____

SECTION E: Site Specific Information

This requested information is necessary to determine the proposed and/or existing use and condition of the lease area.

If you are applying to construct new improvements on state land, or to expand or modify existing improvements, this application may be subject to the Permit Streamlining Act, Government Code sections 65920 and following. You may be required to submit supplemental information. Please contact Commission staff if you have questions as to whether the Permit Streamlining Act applies.

Sea Level Rise and Climate Change (all applicants should answer to the best of your ability):

1. What is the expected life of the structure/activity/project?
2. Does the area experience flooding, storm surge, wave run up or action?
3. Do you know if the city or county where your structure/activity/project is located has a Local Coastal Program, Sea Level Rise Vulnerability Assessment, or any other local plans or reports that deal with sea-level rise and coastal climate change impacts? If so, please provide copies or links.
4. To the best of your ability, describe any features of the structure/activity/project that can adapt, respond, or account for sea-level rise and climate change impacts, including increased storm frequency and intensity, changes in coastal erosion, and increased flooding.
5. To the best of your ability, characterize any sensitive habitats and resources within or adjacent to the lease area location you are applying for.
6. If possible, provide recent photographs of the lease area location you are applying for, from the winter/spring season (February to May) and the summer/fall season (September to November). Please label all photos and list the dates the photos were taken.
 - a. Photos of the state lands you seek to use. If the state lands are a water body, then provide photos looking towards the upland property and photos looking to both sides and photos looking out toward the state lands from the upland.
 - b. Photos of any improvements or structures on the state lands and the immediately adjoining uplands.
 - c. If possible, provide recent photographs of the lease area location you are applying for, from the winter/spring season (February to May) and the summer/fall season (September to November). Please label all photos and list the dates the photos were taken.

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Lease renewals:

If you are applying to renew an existing lease and there are no changes from the existing lease (including ownership, the physical lease premises or improvements, or uses on lease premises), then initial below to confirm there are no changes, please address the Sea Level Rise and Climate Change section, and proceed to Section II.

I am renewing an existing lease and there are no changes from the prior lease:

(Initial here)

Site information (only for applicants not renewing an existing lease):

1. A detailed plot of the lease area(s) location you are applying for including the siting and dimensions of both the existing and proposed structures (how will the lease area be used). Please include property lines along with the location of high and low water marks. (If an elevation is used to locate the water marks, then include the datum of water line elevation used.)
2. An area or vicinity map to scale, showing the project site in relation to major roadways and other landmarks.
3. A land description of the location you are applying for, tied to a monument or monuments of record. This location includes the area occupied by the structures, the area occupied by the applicant's activities, and any associated impact area as provided in 2 CCR §1900(I). If a land description is not provided, Commission staff may be required to prepare a land description to process the lease application at the applicant's cost.
4. Copies of any other relevant documents, including, but not limited to: easements or other agreements granting other parties a right to use the area you are submitting an application for.
5. If you access the proposed lease area through separately-owned uplands, provide a copy of the deed for the upland property, or the lease, permit or other evidence of your right to use this property.

PART II: Certification & Indemnity Agreement

I hereby certify under penalty of perjury that I have completed this application (including Part III Agreement to Reimburse Staff Costs) and all related exhibits and that, to the best of my knowledge, the information is full, complete, and correct. I understand that any misstatement or omission of the requested information or of any information subsequently requested shall be grounds for terminating the application or for denying a lease.

I understand that any projects authorized by the State Lands Commission must be completed as specified by the Commission. If the Commission approves a lease, the lease will specify the improvements allowed, and the time frame for which the lease is valid.

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Except to the extent caused by the negligence and/or willful misconduct of the Commission, Lessee shall indemnify, hold harmless and, at the Commission's option, defend the Commission, its officers, agents, and employees from all damages, injuries, or claims that may arise from the consideration, approval, or denial of this application. This indemnity agreement includes the provisions of, certification of, or adoption of documents prepared pursuant to the California Environmental Quality Act, the National Environmental Policy Act, or other provision of law. This indemnity agreement applies to third party claims and shall not apply to any claims, litigation, or other actions which may be brought by either Lessee or Lessor against each other.

For any Applicant submitting this application as an individual(s), Applicant acknowledges and agrees that by submitting this application the Applicant gives consent for information contained in the Application, except as set forth on page 1A, to be disclosed as described in the Privacy Notice above. This consent meets the consent requirements of Civil Code Section 1798.24.

*For **appointed or elected officials** specified in Government Code Section 6254.21: If you did not check the box on page 1A, by signing this application you are deemed to have given consent to have your home address (when it is the project location) posted on the internet.*

Signature of Applicant: _____ Date: _____

Signature of Co-Applicant: _____ Date: _____

By: _____ Title: _____
(If Agent)

Date: _____

FOR COMMISSION USE ONLY:

Date Received:	
Work Order No.:	Assigned to:
Type of Document:	
Fee(s) Received:	

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PART III: Agreement to Reimburse Staff Costs

Each applicant is required to pay the Commission's costs of processing the application. Each application shall include a non-refundable Filing Fee and the applicable Minimum Expense Deposit for processing fees as set forth below. The Minimum Expense Deposits listed below are based upon typical Commission costs in processing routine uncomplicated transactions, and may not cover the total cost of processing your application. Note: Large or complicated projects may require a larger deposit under a separate contract.

- A. **NON-REFUNDABLE FILING FEE:** \$25.00 (same fee required for all applications).
- B. **MINIMUM EXPENSE DEPOSITS FOR PROCESSING APPLICATIONS:** Use the chart below and the information in Section D on page 3 to determine the amount of deposit required for your project.

Transaction Type	Minimum Expense Deposit
Right-of-Way Lease	\$2,500
Public Agency Lease	\$3,000
Recreational Lease	\$1,500
Protective Structure Lease	\$2,500
Grazing or Agricultural Lease	\$2,500
Dredging Lease	\$1,500
Consent to Encumber Leasehold	\$1,000
Assignment not involving amendment to Lease	\$1,000
Amendment of Lease	\$2,000
Sublease Approval	\$1,500
Most other transactions not listed above	\$1,500

- C. **AGREEMENT:** By signing below, Applicant agrees to reimburse the state for the staff costs incurred in processing this application. Staff costs include, but are not limited to, reviewing the application, environmental review, sea level rise analysis, public trust analysis, appraisals or determination of rent, land descriptions, verification of permits, negotiation of lease terms, drafting lease documents, preparing and reviewing a Commission staff report for the Commission's consideration of the lease, and communication or coordination with the applicant/lessee.
- D. **ADDITIONAL COSTS:** The staff costs of processing some applications may exceed the Minimum Expense Deposit. Processing costs will be higher for complex, environmentally sensitive, or otherwise more time-consuming applications. Applications that are amended or altered project descriptions may require more staff time to process. Costs in excess of the initial deposit shall be invoiced and mailed to the Applicant. Applicant shall notify Commission staff within thirty (30) days of being

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advised of any estimated cost increase if the Applicant wishes to dispute the costs or terminate the project application. Commission staff may stop processing an application if the costs are not reimbursed. Failure to reimburse staff costs may result in termination of an application or denial of authorization.

- E. **INVOICES AND PAYMENTS:** Payments shall be mailed to the California State Lands Commission, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825, within 30 days of receipt of invoice.
- F. **REFUNDS:** Should the minimum expense deposit exceed actual costs, a refund will be mailed to the Applicant within ninety (90) days of completion of the transaction, or earlier termination as provided below.
- G. **TERM:** This agreement shall be effective for three (3) years from the date Commission staff receives the signed agreement, unless terminated earlier pursuant to paragraph H below.
- H. **TERMINATION:** This Reimbursement Agreement terminates once the application is considered at a public meeting, withdrawn by the Applicant, terminated for inactivity, or is otherwise finalized as determined by staff with written notification to the Applicant. Additionally, the Applicant or Commission staff may terminate this agreement at any time upon ten (10) days written notice to the other party. Applicant agrees that in the event of termination of this Agreement by either party, it shall reimburse the state for all staff costs incurred by the Commission until the point of termination.

Applicant understands that payment and acceptance of the minimum expense deposit does not guarantee that the Application will be approved by the California State Lands Commission or any other state, local or federal permitting agency. The application is not considered complete without the receipt of funds and a signed reimbursement agreement.

APPLICANT

BY: _____
Name

DATE: _____

STATE OF CALIFORNIA

BY: _____
Fiscal Officer

DATE: _____

Payments may be made via Credit Card through our Accounting Office
by calling 916-562-0026.

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**ATTACHMENT A
PRIVACY NOTICE**

<p>PRIVACY NOTICE FOR INDIVIDUAL(S) (see Part I, Section B)</p> <p>Section 1798.17 of the Civil Code requires this notice be provided when collecting personal information from individuals. Each individual has the right to review his or her personal information maintained by this agency, unless access is exempted by law. An individual means a natural person.</p>
<p>AGENCY NAME / DIVISION</p> <p>California State Lands Commission / Land Management Division</p>
<p>TITLE OF OFFICIAL RESPONSIBLE FOR MAINTENANCE OF THE INFORMATION</p> <p>Privacy Officer</p>
<p>BUSINESS ADDRESS OF OFFICIAL / TELEPHONE</p> <p>100 Howe Avenue, Suite 100 South, Sacramento, California 95825 / (916) 574-1900</p>
<p>AUTHORITY THAT AUTHORIZES THE MAINTENANCE OF THE INFORMATION</p> <p>Public Resources Code Section 6501 et seq.</p>
<p>THE FOLLOWING ITEMS OF INFORMATION ARE VOLUNTARY, ALL OTHERS ARE MANDATORY</p> <p>All information requested on the application is mandatory, unless otherwise noted.</p>
<p>THE CONSEQUENCES, IF ANY, OF NOT PROVIDING ALL OR ANY PART OF THE REQUESTED INFORMATION</p> <p>The Application will not be deemed complete and may not be considered by the California State Lands Commission. A lease may not be granted.</p>
<p>THE PRINCIPAL PURPOSE(S) WITHIN THE AGENCY FOR WHICH THE INFORMATION IS TO BE USED</p> <p>The information will be used to consider whether a lease of state lands is allowed by law, consistent with public trust needs, and in the best interests of the state. Information from the application including the Applicant's name and the project location may be posted permanently on the Internet at the Agency's website: www.slc.ca.gov. Applications will be retained for as long as allowed by the Agency's Records Retention Schedule as established in accordance with the State Administrative Manual and as approved by the Department of General Services. This may be for as long as the state has an interest in the land involved.</p>
<p>KNOWN OR FORESEEABLE DISCLOSURES OF THE INFORMATION PURSUANT TO CIVIL CODE SECTION 1798.24(e) or (f)</p> <p>Bureau of State Audits; local, state, and/or federal regulatory agencies with jurisdiction over any aspect of the proposed project.</p>