



## Legislation Text

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**File #:** 15-0533, **Version:** 1

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Recommendation to receive supporting documentation into the record, conclude the public hearing, and adopt resolution amending the Master Fee and Charges Schedule by adopting a Public Seawall Mooring Lease Permit Fee;

A report on the condition and repair needs for the public seawalls in Naples was completed in 2009, and a Mitigated Negative Declaration (State Clearinghouse No. 2010011073) for the Naples Permanent Seawall Repair Project (Project) was certified by the Planning Commission on May 6, 2010 (Attachment A - Location and Vicinity Maps). On June 15, 2010, the City Council authorized \$9.5 million in funding for the Project, which seeks to permanently address the serious infrastructure concerns with approximately 11,000 lineal feet of public seawalls surrounding Naples. Permanent repair of the entire seawall system has been divided into six phases, with Phase One addressing the area in the most imminent danger of collapse (Attachment B - Map of Repair Priorities and Phasing Plan).

The Phase One Project consists of repairing 1,915 lineal feet of public seawalls located in the Rivo Alto Canal, from the Ravenna Bridge to the eastern portion of The Toledo Bridge. To date, the Phase 1 Project has been fully funded and is currently under construction. On May 6, 2014, the City Council adopted plans and specifications No. R- 6983 for construction of the Phase One Project, appropriated additional funds, and awarded a construction contract to Ford E.C., Inc., of Los Angeles, CA, for a total amount not to exceed \$11,471,637. Construction for the Phase One Project began later that year and is anticipated to be completed this summer.

With regard to Phase One, on October 9, 2013, the California Coastal Commission (CCC) approved the City's application to proceed subject to 17 special conditions of approval, one of which requires the City to institute a new Public Seawall Mooring Lease Program (Lease Program) for private docks, floats, and piers located on public waterways in (at least) the Phase One project area (Special Condition of Approval No. 10). It is expected that the CCC will require that this new Lease Program be expanded to apply to other portions of the seawall areas, as they approve future phases of the Project through the required Coastal Development Permits.

In addition, another condition imposed by the CCC requires the dimensions of dock floats in Rivo Alto Canal and Naples Canal (pertinent in a future phase of the Project) to be restricted to a width of six feet, and requires compliance to the size limits when they are replaced or substantially repaired, or no later than December 31, 2023. As required, the dock float size limit will be included in the Public Seawall Lease Permit. This condition was imposed in order to reduce further encroachment of development into the navigable channel, and requires the

Proposed Ordinance (Attachment C) to amend the pierhead lines, and also establishes the Lease Program in the Municipal Code.

The Resolution approving the Lease Program and model Public Seawall Lease Permit template (Attachment D) authorizes the City Manager to begin implementation in Phase One as well as the ability to expand the application of the Lease Program to future phase areas of the Project, and to modify and amend the Lease Program in order to comply with any and all conditions and requirements imposed by the CCC.

Pursuant to the CCC's requirements for the Phase One repairs, on May 7, 2015, staff provided a memorandum to the City Council describing the proposed new Lease Program (Attachment E). The proposed annual rent is \$0.50 per square foot of water space occupied by docks, floats, gangways, or piers, including berthing space surrounding the structures (Attachment F and Attachment G). The fee was developed with several criteria in mind and after considering the various costs associated with maintaining the public rights of way adjacent to the public seawalls, as well as the seawalls, themselves. The criteria include:

- This program will only affect those properties where new public seawalls were installed;
- This program is designed so that the average user will pay approximately what they are currently paying;
- The new lease program should generate at least the same level of revenue as the current fees;
- The new program will use pricing that is competitive, based on local market conditions;
- The program will generate revenue that can recover costs associated with operations, repair, and maintenance of public seawalls, tidelands areas, and associated public rights of way.

Three community meetings have been held to solicit input on the proposed fee. During the community meetings, residents expressed concern that future homeowners know that the size of the boat they can have is limited prior to purchasing the house. As such, the Public Seawall Lease Permit will provide notification that there is a maximum size to boats as established by the City's Marine Bureau. The proposed Lease Program has also been provided to CCC staff.

For participating property owners in the Phase One area of Rivo Alto Canal, the new lease program would replace the Seawall Mooring Fee, which is currently \$10.10 per lineal foot of vessel, and averages approximately \$205 per year per user. Currently, property owners who do not moor vessels at their private docks do not pay any fees for the use of public waterways. For the average dock, the City expect this new program to cost approximately \$215 per year on average, based on a review of typical docks in Phase One. An amendment

to the Master Fee and Charges Schedule is necessary as part of the establishment of the new Lease Program (Attachment H).

The proposed lease permit term would be for five (5) years. At the conclusion of the fiveyear period, the property owner would be required to renew the lease permit. The Marine Bureau will administer the lease program and handle permit implementation. Lease permit revenue will be used to help maintain the new infrastructure in the canal and the adjacent public rights of way.

This matter was reviewed by Deputy City Attorney Linda Vu on May 26, 2015 and by Budget Officer Victoria Bell on May 22, 2015.

A lease program satisfying the CCC requirement must be approved and implemented before any docks, floats, or piers can be returned to the Phase One area. City Council action is requested on June 16, 2015 to ensure that docks can be returned at the conclusion of the construction project.

In FY 2013-2014, the existing Seawall Mooring Fee generated \$8,302 in revenue from the Phase One area. This revenue was deposited into the Tidelands Operations Fund (TF 401). The proposed Lease Program in the Phase One area is anticipated to generate \$11,000 annually and will be adjusted annually in accordance with the CPI.

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