

DATE ISSUED: March 26, 2003

REPORT NO. 03-054

ATTENTION: Honorable Mayor and City Council
Docket of April 1, 2003

SUBJECT: Seal Rock Marine Mammal Reserve

REFERENCE: Manager's Report No. 99-156, dated July 26, 1999
Ordinance No. 0-18733, dated December 7, 1999

SUMMARY

Issue - Shall City Council accept the California Coastal Commission Coastal Development Permit with Special Conditions for reinstatement of Seal Rock Marine Mammal Reserve?

Manager's Recommendation - Accept the California Coastal Commission (CCC) permit with all three special conditions and direct (1) the City Attorney to revise Ordinance Number 0- 2000-71 to reflect this action and (2) the Manager to meet the conditions and obtain the Coastal Development Permit from Coastal Commission and return to City Council in five years with a recommendation as to whether to continue the Reserve or not.

Other Recommendations - None.

Fiscal Impact - None with this action.

BACKGROUND

In 1994, City Council established a temporary five-year Seal Rock Marine Mammal Reserve, Ordinance No. 0-18091, which went into effect on September 17, 1994, with a sunset of September 16, 1999.

During the five-year period of the Reserve, the use of the beach and water at Children's Pool by seals and humans became an issue. Given the proximity of these two sites used by harbor seals, the Reserve was held in abeyance pending discussion in spring 1999, of the proposal to increase the size of the pool portion of Children's Pool for tidal flushing by reducing the size of the available haul-out area at the beach. The proposal was not adopted and City Council referred the issue of the Reserve to Council Committee. Committee scheduled discussion of the Reserve for August 1999, with the understanding that if City Council should decide to continue the Reserve, the Reserve would expire before all necessary implementing measures could be taken, but that signs identifying the Reserve would not have to be removed during the interim.

On November 1, 1999, City Council voted to establish the Seal Rock Marine Mammal Reserve as a permanent Reserve with a review by Council in five years; to add interpretive signs; and to support a volunteer docent program.

On November 23, 1999, City Council introduced Ordinance No. 0-2000-71 as amended to include review of the Reserve by the California Coastal Commission (CCC) and State Lands

Commission (SLC). The Manager consulted with California Department of Fish and Game and SLC before applying to CCC in August 2000, for a Coastal Development Permit (CDP) to establish a permanent Reserve with all previous ordinance conditions and boundaries. CCC heard the City permit request on March 13, 2001, and ruled to issue the permit contingent on three special conditions as follows:

- Special Condition No. 1: Permitted Reserve would expire after five years. Any future proposal to continue the Reserve would require another CDP.
- Special Condition No. 2: Prior to issuance of permit, the City shall submit to CCC Executive Director final plans for proposed identification, information, and education signage related to Reserve. Total number of signs not to exceed eight in number and not to include any free standing signs.
- Special Condition No. 3: Reserve boundaries shall be revised such that the Reserve shall extend 100 feet to east and south of Seal Rock as illustrated in Attachment 1 of this report.

DISCUSSION

Acceptance of Special Condition No. 1 would require an amendment to the ordinance changing the Reserve status from permanent to a temporary five-year Reserve. The Manager would need to return to City Council within five years with a recommendation as to whether to apply for another CDP to extend the Reserve or to let it lapse.

Acceptance of Special Condition No. 2 would direct the Manager to limit the number of interpretive, identification, and informational signs related to the Reserve to a total of eight. Additionally, none of these signs could be free-standing on the beach at Children's Pool or tall free-standing pole or roof signs elsewhere. The CCC Executive Director would need to approve the location and type of signs related to the Reserve as provided in a Sign Plan submitted for compliance with this permit special condition. The Manager does not foresee a conflict of City policy and City interests with the development of a Sign Plan and compliance with the limitations on signs as requested by the CCC.

Acceptance of Special Condition No. 3 would require an amendment to the ordinance. A City survey crew would need to revise the Reserve map metes and bounds to reflect a reduction in the size of the Reserve to meet the 100-foot limit to the east and south of Seal Rock as requested by CCC. Loss of a portion of the open water area within the current Reserve boundaries would not adversely affect the haul-out area available to the seals within the Reserve as the Reserve would still encompass the submerged and exposed rocks as well as some degree of buffer. Enforcement may be a problem, however, at the southeastern portion of the Reserve where CCC has changed the boundary to be a line through open water with no landmark to identify where that "line" is. A small portion of open water would be made available to swimmers and divers; although, the area is close to the rocky bluff and may not be safe for human use under certain weather and surf conditions.

In conclusion, the special conditions imposed by CCC as contingencies for the issuance of a CDP for the Seal Rock Marine Mammal Reserve would not change the level of protection provided to the seals by the Reserve; therefore, the Manager recommends the permit be accepted with all three special conditions and changes made to Ordinance No. 0-2000-71 to reflect this action. The Reserve would still remain a clear, pro-active reminder to people to respect the space the seals use for hauling-out as outlined in the federal Marine Mammal Protection Act. The change in status from permanent to temporary would require either the City seek periodic CDPs for as long as the City Council desires to continue the Reserve or the City pursue an amendment to the State Lands Grant for the area making an ecological reserve an approved use under the grant.

ALTERNATIVES

1. Direct the City Manager not to pursue the CCC Coastal Development Permit and allow the Seal Rock Marine Mammal Reserve to remain lapsed; or
2. Direct City Manager to fulfill permit conditions for a five-year temporary Reserve and meanwhile pursue the establishment of a permanent Reserve via legislative action to amend the applicable State Lands Grant.

Respectfully submitted,

Ellen Oppenheim
Director, Park & Recreation

Approved: Bruce Herring
Deputy City Manager

BEHAN/RDS

Note: The attachments are not available in electronic format. A copy is available for review in the office of the City Clerk.

- Attachments:
1. California Coastal Commission Notice of Intent to Issue Permit (Application No. 6-00-126, dated March 20, 2001
 2. City Manager's Report No. 99-156, Seal Rock Marine Mammal Reserve, dated July 26, 1999
 3. City Ordinance No. 0-2000-71, dated December 7, 1999, re-establishing the Seal Rock Marine Mammal Reserve