



**FAXED**  
9-14-00

**Date:** September 14, 2000  
**To:** Jennifer Reischman, State Lands Commission  
**From:** Robert J. Paternoster, Director, Queensway Bay Project  
**Subject:** Response to Questions from Queensway Bay Public Workshop

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This is in response to the list of questions which you forwarded to me on September 6. I have responded to each question in as much detail as possible, given the short time available to do research. In some cases, another speaker at the Workshop fully responded to the question, in which case I have referred to that speaker's testimony. I have given short or no responses to those questions which have nothing to do with development of the Downtown Tidelands.

1. The Queensway Bay Plan was prepared by a 23-member Queensway Bay Citizens Advisory Committee, appointed by the Mayor and the City Council. Members represented each of the City's nine Councilmanic districts, and each member was charged with obtaining input from his or her community. The Committee met 25 times over a two-year period. Each meeting was noticed by the City Clerk and held in a large public meeting room or auditorium. Public testimony was received at the end of each meeting; each speaker is recorded in the minutes. In addition, chairman Phil Infelise and several other committee members attended neighborhood association meetings throughout the City to discuss the plan. See testimony of Phil Infelise.
2. The Queensway Bay Plan was reviewed and approved by the Planning Commission, City Council and California Coastal Commission in meetings which were well covered by the press. There was no substantial public opposition before any of these bodies, and the adoption in each case was by unanimous vote. Over the past six years, at least 24 agendas of the City Council had items relating to Queensway Bay. Over the same time period the director of the Queensway Bay Project sent out 18 newsletters to over 300 community leaders. It is not the practice of the City of Long Beach to put development projects to a vote of the people.
3. The City proposes to market bonds for construction of a second parking structure within the Queensway Bay Project, utilizing a Mello Roos Community Facilities District. Under this procedure, a lien is placed upon the developer's leasehold to provide security for the bonds. If parking revenues are insufficient to make bond payments, a tax is placed upon the leasehold by the County Tax Collector. If the tax is not paid, the bondholders, through a foreclosure procedure, take control of the leasehold.

The bonds used to finance construction of the Long Beach Aquarium of the Pacific are in no way related to the Mello Roos bonds which the City plans to issue for the parking structure. The not-for-profit Aquarium sold bonds which are to be repaid from revenues realized by operation of the Aquarium.

4. Dennis Eschen, in his testimony at the Workshop, provided a thorough explanation of the park conversion process. He presented, for the record, a letter of October 16, 1995 from the National Park Service and letters of October 17, 1995 and July 5, 2000 from the State Department of Parks and Recreation approving the park conversion process. Shoreline Park was completely rebuilt and substantially improved by the Queensway Bay Project. The RV campground which was located in the original Shoreline Park was relocated to a vacant property which was not designated, dedicated or used as a public park. With regard to the four acres of the original Shoreline Park which will be developed with restaurant and other waterfront commercial uses, the City, in accordance with its own policy and with requirements of the California Coastal Commission, State Department of Parks and Recreation, and the National Park Service, developed and opened a new four-acre public waterfront park which has been approved by all three of the above-cited agencies as full mitigation for the conversion of a portion of Shoreline Park. This new four-acre Events Park is located at the bow of the Queen Mary on land which was previously used for a gasoline service station and a heliport.
5. Attached is a copy of Proposition A, approved by the voters on June 7, 1960, authorizing the use of up to \$42 million for "land fills, sea walls, roadways, lighting, landscaping, utilities, maritime museum and other buildings." The Proposition does not appear to place any specific limitations on the use of the subject landfill.
6. The operation of the City's two major marinas is not relevant to the development of the Queensway Bay Project. Questions regarding the marinas should be addressed to Mark Sandoval, Manager of the Marine Bureau, 205 Marina Drive, Long Beach, 90802 (562-570-3241).
7. The wetlands mitigation area was designed under the guidance of the U.S. Army Corps of Engineers, the Environmental Protection Agency, the Fish & Wildlife Agency, the California Department of Fish & Game, and National Marine Fisheries. A baseline biological survey of the Shoreline Lagoon was undertaken by Dames & Moore in 1992, to determine the productivity of the intertidal habitat (mudflats) which were to be removed by construction of Rainbow Harbor. Wetlands Research Association designed a monitoring plan for the new wetlands mitigation area in 1996. Monitoring began immediately after completion of the wetland in 1998 by

MBC Applied Environmental Services, with the first report issued in January, 1999. The annual monitoring reports are distributed to the California Coastal Commission, the U.S. Army Corps of Engineers, National Marine Fisheries, the Department of Fish & Game, the U.S. Fish & Wildlife Agency, and the Regional Water Quality Control Board. The latest report of January, 2000, indicated that the wetland was ahead of the target schedule for achieving specific levels of productivity. Fish density was "greater than during previous studies in [Shoreline] Lagoon" and bird abundance and diversity "were similar to those surveys of Shoreline Lagoon in 1983-1984, 1992 and 1994."

8. Litter laws on the beaches are enforced by the Lifeguards (Fire Department) and by the summer Beach Patrol (Police Department). Litter complaints are handled by David Ashman, Manager of Maintenance and Development of the Department of Parks, Recreation & Marine (562-570-3126), who is also responsible for removing from the beaches the debris deposited annually by the outflow of the Los Angeles River.
9. When the original lease with Hyatt was negotiated in 1983, Downtown Long Beach was awash with less than desirable bars, adult movie theaters and adult bookstores. There was not one first-class hotel facility. As a result, the Convention Center catered primarily to consumer shows rather than overnight conventions. The City negotiated the original "loss leader" lease to attract the prestigious Hyatt Corporation to Downtown. Subsequent to the Hyatt opening, Downtown has seen the construction of three additional first-class hotels, the replacement of seedy uses with quality restaurants and shops, and a dramatic rise in Convention Center bookings.

The original Hyatt lease provided for a base rent of \$200,000/year, a percentage rent of 5 percent of gross operating profits with an additional 15 percent of the balance of Hyatt's cash flow, and a facilities (banquet room and kitchen) sub-lease of \$1,781,078. In addition, the City agreed to lease the parking structure from Hyatt for \$2,855,263, and lease back 500 spaces to Hyatt for \$476,543. In the prioritized list of thirteen recipients of available Hyatt revenues, the parking rent was third in line, the percentage rent sixth in line, the base rent seventh in line, the facilities sublease ninth in line, and the additional percentage rent 13<sup>th</sup> in line. Although the Hyatt did pay some rent, because of the City's position in the payment priority list, by 1995 the recorded uncollected receivables in base rent, percentage rent and accrued interest totaled \$22 million. The City had an opportunity to renegotiate the lease in 1995. As part of the new lease, the City wrote-off the receivable mentioned above and Hyatt paid the City \$2,751,000. In addition, the new lease removed the payment priorities and therefore guarantees the payment of the base rent of \$242,000/year with 10 percent

escalation each five years, and a percentage rent of 2.5 percent of gross operating profit. The lease/lease-back for the parking structure remained in tact.

10. The 1960 Shoreline Development Plan was superceded by the Local Coastal Program, adopted by the City and certified by the California Coastal Commission in 1980. The Program was prepared by a citizen advisory committee of diverse interests which held 133 meetings over the two-year planning period.

Within the Downtown area, the most urban part of the City's waterfront, the Program called for a new Shoreline Park, a new Downtown Marina and Marina Green, hotels and shops, and a new elevated pedestrian promenade to link Downtown to the waterfront. In May, 1995, the California Coastal Commission, in a unanimous vote, certified an amendment to the Local Coastal Program to incorporate the Queensway Bay Plan, which included a new commercial harbor, a world-class aquarium, and 627,000 square feet of visitor-serving commercial uses (including the then existing Shoreline Village) which could include "retail, restaurant, nightclub, movie, arcade and related entertainment uses." See Workshop testimony of Robert Paternoster.

11. The City has no records of the public review process for the coastal Plan of 1972. Nevertheless, this was superceded in 1980 by the Local Coastal Program, described above.
12. The Local Coastal Program (LCP), adopted by the City and certified by the California Coastal Commission in 1980, required that all public parks and beaches within the Tidelands be "designated by the City as permanent public parks or beaches." It further required that "no parkland which has been dedicated or designated within the Coastal Zone shall be committed to another use unless the City replaces such parkland on an acre-for-acre basis within or adjacent to the Coastal Zone with the approval of the California Coastal Commission." Shoreline Park was designated by the City Council as a permanent park. In accordance with the LCP, when it was proposed to develop four acres with commercial uses, the City planned a replacement four-acre waterfront park, had it approved by the California Coastal Commission, and completed its construction (see response to question 4, above).
13. Attached is a summary of the overall construction budget to date for the Queensway Bay Project and the sources of the \$184,933,000 spent. The next and last major phase of the Queensway Bay Project is the restaurant/entertainment/retail development which is being privately financed. Developers Diversified Realty Corporation (DDR) and California

Urban Investment Partners (CUIP) are providing approximately \$40 million in equity, and BankOne will provide the remaining \$61,500,000 of construction financing in the form of a loan. The City's commitment to the project under the executed Disposition and Development Agreement is as follows:

- Forgive all or a portion of the land rent for a period not to exceed 14 years for any year in which the developer does not realize a 12.5 percent return on cost.
- Forgive approximately \$1,400,000 of City and Water Department permit fees, to be paid in the future by the Redevelopment Agency from project tax increment payments.
- Direct net parking meter revenue derived from the project (estimated at \$614,000/year) to the parking structure revenue fund until such time as parking structure revenue equals or exceeds parking structure costs.
- Contribute up to \$1,169,000/year from the City's General Fund to offset annual operating loss, if any, of the parking structure (based upon City requirement to expand parking structure from 1550 to 2200 spaces).

For comparison, the restaurant/entertainment/retail development is expected to generate the following fiscal benefits:

- Sales & business taxes \$1,698,000/yr. to General Fund
- Lease revenue \$1,450,000/yr. to Tidelands Fund
- Tax increment \$ 800,000/yr. to Redevelopment Agency

14. The City does not receive copies of signed leases from the developer. The developer is required to submit a tenanting plan to the City and to report all signed leases, but is not required to transmit copies of signed leases.

15. The restaurant/entertainment/retail development is estimated by the developer to cost approximately \$101 million.

16. The City spends approximately \$112,000/year to maintain Shoreline Park. This does not include the cost of water and electricity, nor does it include the cost to maintain Rainbow Harbor and the public esplanade around it.

17. The economic conditions surrounding Long Beach Plaza, a Downtown shopping mall four blocks north of the Tidelands property, does not appear relevant to the subject of the Workshop.
  
18. The water in the original Shoreline Lagoon was never of high enough quality to permit water contact sports and recreation. Although the Lagoon was subject to tidal action, its channel to Queensway Bay was not sufficiently large to allow for flushing. Water quality has improved since the Lagoon was reconfigured to form Rainbow Harbor.
  
19. The financial and economic contribution of the Port of Long Beach to the City of Long Beach does not appear relevant to the subject of the Workshop.

**CALIFORNIA STATE LANDS COMMISSION**  
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Sacramento, CA 95825-8202



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**Contact Phone: (916) 574-1900**  
**Contact FAX: (916) 574-1955**

**DATE: September 20, 2000**

**TELECOPIER MESSAGE**

**PLEASE DELIVER**

**ASAP TO:**

Bob Paternoster

**Fax No:** (562) 570-6583

**Phone:** (562) 570-6623

**FROM:**

Jennifer Reischman

**Phone:** (916) 574-0234

**NUMBER OF PAGES (INCLUDING COVER):** 2

**ORIGINAL:**

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**By:**

**MESSAGE:**

Good afternoon - attached are a couple more questions to help us with  
our report. Thank you again for all your help. If you have any questions  
please give me a call.



**Date:** September 22, 2000  
**To:** Jennifer Reischman, State Lands Commission  
**From:** Robert J. Patermoster, Director, Queensway Bay Project  
**Subject:** Response to Additional Questions

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1. Aquarium Bonds

- The bondholders have priority over the port to access the bed tax collected by the Redevelopment Agency from Downtown hotels. This does not constitute a lien, but rather an agreement between the Redevelopment Agency and the Board of Harbor Commissioners. Once the port loan is repaid, the bond holders will continue to have access to the bed tax if Aquarium revenues are insufficient to make the bond payments.
- No bed tax funds have been transferred to the Aquarium to date; they have made all debt service payments out of Aquarium revenues.
- The amount of the Aquarium bond issue is \$117 million. The port income is in no way pledged to support the bonds. Revenue to the Tidelands Fund (a separate account in the City of Long Beach from the port funds) are pledged to the bondholders should Aquarium revenues and Downtown bed tax be insufficient to make payments.
- Technically, the bondholders have no lien rights to the Tidelands Fund since there is no property to lien. What they have is a pledge of net revenues, if any, in the Tidelands Fund of the City. Harbor revenues are not pledged.
- The City Council has pledged Tideland Fund revenue to the bondholders, if it is needed. They cannot refuse to pay it if the fund has a revenue balance.
- The bondholders could sue the City if it failed to honor its pledge in the bond documents.

2. Queen Mary Fund

When the Board of Harbor Commissioners transferred the Queen Mary to the City of Long Beach, it also transferred a \$6.5 million repair account. Approximately \$6.0 million if this account has been expended or encumbered to date to make repairs to the Queen Mary. Interest earnings on this account were used, in part, to pay the annual administrative costs



of the Director of the Queensway Bay Project. None of the interest was used to develop any part of the Queensway Bay Project. Please refer to the answer to question 13 in my memo of September 14, 2000 to see the funding sources for all of the Queensway Bay developments to date (\$185 million) and proposed.

3. The event park has been "designated" as a public park in perpetuity by the City Council, in accordance with requirements of the Local Coastal Program. The City cannot legally "dedicate" State Tidelands. The designation action by the City Council was not recorded and would not show up on a title report.
4. There is no use of eminent domain in the Queensway Bay Project. This power is used, as necessary, by the Redevelopment Agency to remove blight and to acquire sites for public purpose. This issue should be referred to Barbara Kaiser, Manager of the Redevelopment Bureau of the Department of Community Development (570-6340).

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DATE: October 25, 2000

**TELECOPIER MESSAGE**

**PLEASE DELIVER**

**ASAP TO:**

Mr. Bob Paternoster

Fax No: (562) 570-6583

Phone: (562) 570-6623

**FROM:**

Jennifer Reischman

Phone: (916) 574-0234

NUMBER OF PAGES (INCLUDING COVER): 2

ORIGINAL:

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By: \_\_\_\_\_

**MESSAGE:**

Attached are the additional documents I will need to supplement our  
report. Thank you.

## List of Documents Needed

1. Master Plan of Shoreline Development (June 7, 1960)
2. Coastal Plan of 1972
3. 1980 LCP (and various amendments)
4. Any type of monitoring study on the wetland mitigation
5. J.B. Research Market Study
6. City Council Meeting Minutes – where the subject was Queensway Bay



**Date:** October 30, 2000  
**To:** Jennifer Reischman, State Lands Commission  
**From:** Robert J. Patemoster, Director, Queensway Bay Project  
**Subject:** Response to Request for Additional Documents

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This is in response to your FAX of October 25, 2000, requesting six additional documents. I am enclosing copies of the documents which are currently available. I have commented below on each of your requests.

1. Master Plan of Shoreline Development (June 7, 1960)

June 7, 1960 was the date of the municipal election at which the voters approved Proposition A "Authorizing the use of not more than \$42,000,000 from the City's Tidelands Oil Fund for the purpose of the construction and development of shoreline improvements between the prolongation of Alamitos Avenue on the east and the Los Angeles River Flood Control Channel on the west, in accordance with the Master Plan therefore, adopted by the City Council March 8, 1960, which improvements shall include land fills, sea walls, roadways, lighting, landscaping, utilities, maritime museum and the buildings and properties and rights-of-way necessary therefore."

With the single exception of the maritime museum, I believe that the City faithfully constructed all of the enumerated "improvements." I cannot find a copy of the referenced plan, but I believe that that plan submitted to you by Lester Donevan dated January 14, 1960 (copy attached) is the one adopted by the Council on March 8, 1960. It is interesting to me that this plan designates the site north of Shoreline Drive for "private development" and "parking," and the site south of Shoreline Drive for the "swimming lagoon" (which as built), surrounded by beach and park. The water quality in the lagoon was never sufficient for swimming and the sand was not placed (probably both because it would be lost to tidal action and because the resource agencies would not permit sand on an intertidal habitat).

The 1960 shoreline plan was superceded by the Local Coastal Program adopted in 1980.

2. Coastal Plan of 1972

Again, I cannot locate a copy of this plan and I do not know if it was officially adopted. Enclosed is a copy of the plan as submitted to you by Lester Donevan. He notes that it "consists only of a single map."

If such a plan was adopted in 1972, it was superceded by the Local Coastal Program adopted in 1980.

3. 1980 LCP

A copy of the LCP, current with all amendments, is enclosed. The plan was prepared by a 40-member citizens advisory committee which met 133 times between 1978 and 1980. Lester Donevan was a member of that committee. He argued at that time that all of the State Tidelands should be public park or beach. Although the committee agreed with him east of Alamitos, they recommended a plan which would include hotels, restaurants and shops along the Downtown Shoreline. The LCP was unanimously certified by the California Coastal Commission.

4. Any type of monitoring study on the wetland mitigation

Enclosed are copies of the wetland monitoring studies for the first two years by MBC Applied Environmental Services. A similar report will be prepared for the remaining years.

5. JB Research Market Study

Enclosed is the most current copy of the JB Research study on the proposed Queensway Bay Retail Entertainment Center.

6. City Council Meeting Minutes

Enclosed are the minutes of all of the City Council meetings at which significant action was taken on the Queensway Bay Plan and Project.

7. Queensway Bay Newsletters

As you requested by telephone, I am enclosing a full set of my Queensway Bay Newsletters.

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**DATE: November 21, 2000**

**TELECOPIER MESSAGE**

**PLEASE DELIVER**

**ASAP TO:**

Mr. Bob Paternoster

**Fax No:** (562) 570-6583

**Phone:** (562) 570-6623

**FROM:**

Jennifer Reischman

**Phone:** (916) 574-0234

**NUMBER OF PAGES (INCLUDING COVER):** 2

**ORIGINAL:**

Will Follow  
Will Not Follow

**By:**

**MESSAGE:**

Hi Mr. Paternoster, attached are some additional questions for the City to answer to facilitate the completion of our report. I understand it is the holiday season and it might take some time, but I would appreciate any answers as soon as possible. Thank you for your patience and your help. - Jennifer

## Additional Questions

1. How was the planning for the Queensway Bay Development financed? More specifically, the financing for the construction of the Queensway Bay Development has been outlined, but not the planning aspect.
2. Spending of tidelands funds through the Port of Long Beach, as well as federal and state directly by the legislature, have totaled \$172 million on the Queen Mary as of 1984. Despite all this, the trustees, the City of Long Beach chose to lease this state asset for \$250,000 per year. They did this without bid and without any significant commitment to invest in this operation. This amounts to \$400 per month for that lease with all that money expended on the public's behalf. Is this true?
3. How much money has the aquarium lost since it has been opened?
4. The aquarium bond measure was actually brought before the city council on the day that it was approved by the city council. Is this true? Is there any provision in the City Charter that specifies public notice? If the above is true, was there any kind of extraordinary circumstances surrounding this subject, to make it impossible to give public notice?
5. Is the convention center subsidized by the City of Long Beach?



**Date:** December 8, 2000  
**To:** Jennifer Reischman, State Lands Commission  
**From:** Robert J. Patemoster, Director, Queensway Bay Project  
**Subject:** Responses to Additional Questions of November 21, 2000

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I have tried my best to answer the five additional questions which you submitted on November 21, 2000. The responses are numbered in correspondence to your numbered questions.

1. Planning for the Queensway Bay Project was funded by the Port of Long Beach. The office of Director, Queensway Bay Project was established in July, 1994, to implement the Queensway Bay Plan. The expenses of this office through 1998 were paid from interest accrued on the \$6.5 million Queen Mary Repair sub-fund, established when the Port turned over to the City the ship and funds for its repair.
2. I cannot confirm or deny the \$172 million figure that was mentioned. The City's original lease (February, 1993) with the RMS Foundation, Inc. required a base rent of \$20,000/month or \$240,000/year plus percentage rent. This lease was modified in July, 1995 and again in October, 1998 with the base rent raising to \$25,000/month or \$300,000/year plus percentage rent. The percentage rent varies according to gross revenue and contributed just over \$1million to the Tidelands Fund last fiscal year. Our current Tidelands Fund budget anticipates the contribution of base rent, percentage rent and Transit Occupancy Tax (TOT) to total approximately \$2 million. This entire amount is restricted to the Tidelands Fund. I cannot begin to understand where the "\$400 per month for that Lease" statement and dollar figure came from.
3. The Aquarium realized a \$709,632 profit in fiscal year 1998 and had a loss of \$1,907,201 in fiscal year 1999. The original bond issue provided substantial reserves from which losses can be paid. If losses continue after the reserves have been exhausted, the City is committed to make up the difference.

To date, the City of Long Beach (including Tidelands Funds) has not paid any Aquarium costs or debt payments. The original financing and initial success of the Aquarium have provided funding necessary to effectively operate the Aquarium, to expand exhibits and to make debt service payments. The Aquarium and the City are currently reviewing options to refinance the Aquarium bonds to lower debt service payments.



4. The bond issue for the Aquarium provided all legally regional public notice. In addition, Aquarium planning and financing was reported on extensively in the local newspapers. In addition, the bond issue was validated before the Los Angeles Superior Court. Rather than list all of the notices, I am enclosing a copy of the opinion of the court in the case of Joel B. Friedland v. City of Long Beach, which opinion speaks positively to the notice provided on the bond issue.
  
5. The Convention Center operates within its own operating account. This account receives revenue from all booked activities occurring within the complex and pays for all expenses associated with these activities including the management fee. The question, "Is the Convention Center subsidized by the City of Long Beach?", should be answered "No". the "City" has no financial obligation to this specific operation but the Tidelands Fund does have some responsibility. This includes paying for all utilities, operation of the Energy Plant, debt service on the Energy Plant and other minor expenses. These expenditures typically run about \$4 million annually. The Fund is also responsible for any financial deficit to the operating account, but we have historically received shared profits from the operation. In fiscal year 2000, these profits placed \$882,241 into the Tidelands Fund. Major convention centers throughout the country are publicly subsidized.