

MINUTE ITEM

This Calendar Item No. 41
was approved as Minute Item
No. 41 by the State Lands
Commission by a vote of 2
to 0 at its 8/25/77
meeting.

MINUTE ITEM

8/25/77
BHS

41. AUTHORIZATION OF THE STATE LANDS DIVISION STAFF TO
CONDUCT PUBLIC HEARINGS ON THE AMENDMENT OF THE CALIFORNIA
ADMINISTRATIVE CODE - W 5125 - W 396.615.

During consideration of Calendar Item 41, attached, Mr. William F. Northrop, Executive Officer, explained the item briefly stating that if the applicants provided certain services to the general public such as fire extinguishers, life rings, etc., the piers could be rent free with the exception of possibly a preparation fee to prepare the necessary paper work.

Ms. Betty Jo Smith, Commission-alternate, raised the question as to what would happen if the Governor decided not to veto SB 349. Mr. William F. Northrop then said that this item would become moot. Mr. Jan Stevens, Deputy Attorney General, stated that if the Bill becomes law the situation would have to be re-examined because the Legislature, in effect, would have made a finding that these piers constituted a public purpose. Ms. Smith asked when the subject hearings would take place if SB 349 is not signed by the Governor. Mr. Robert C. Hight, Chief Counsel, said sometime next month.

Ms. Smith expressed approval of the Resolution on the condition that if the Governor vetoes SB 349 then staff would have to come back to the Commission for reconsideration. Acting Chairman, Roy M. Bell, Director of Finance, reiterated that it was subject to the action of the Governor for approval.

Upon motion duly made and carried, Calendar Item 41 was approved by a vote of 2-0 subject to the Governor's action of Bill SB 349.

THE COMMISSION AUTHORIZES THE EXECUTIVE OFFICER, OR HIS DESIGNEE, TO HOLD A PUBLIC HEARING ON THE AMENDMENT OF CALIFORNIA ADMINISTRATIVE CODE TITLE 2, ARTICLE 2, DIVISION 3; SUBJECT TO THE GOVERNOR'S VETO OF SB 349, 1977.

Attachment: Calendar Item 41 (1 page)

8/77
W 5125
W 396.615
Sway

CALENDAR ITEM

41.

AUTHORIZATION OF THE STATE LANDS DIVISION STAFF TO
CONDUCT PUBLIC HEARINGS ON THE AMENDMENT OF THE
CALIFORNIA ADMINISTRATIVE CODE

Earlier this year, the State Lands Commission acted to amend its administrative procedures for the permitting of private recreational piers. This action was taken pursuant to advice rendered by Attorney General that the issuance by the Commission, of rent-free permits for private recreational piers provided no public benefit and was therefore a gift of public property and violative of the California State Constitution.

Since the Commission's action, considerable interest has been expressed in having the Commission establish a mechanism for a permittee to provide a public benefit in lieu of monetary consideration. The Division has sought the advice of the Attorney General as to the adequacy of allowing permittees to provide a public benefit in lieu of monetary consideration and has been informed that such a procedure may be adopted so as not to violate the gift clause of the State Constitution.

In order to provide for adequate public input as required by the California Administrative Procedure Act, public hearings are proposed.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER, OR HIS DESIGNEE, TO HOLD A PUBLIC HEARING ON THE AMENDMENT OF CALIFORNIA ADMINISTRATIVE CODE TITLE 2, ARTICLE 2, DIVISION 3.