TRANSCRIPT OF
MEETING OF
STATE LANDS COMMISSION
JUNE 13, 1957 - 10:00 A.M.

PRESENT:

THE COMMISSION:
Messrs. John M. Peirce, Chairman
Harold J. Powers
Robert C. Kirkwood

STATE LANDS DIVISION:
Messrs. Rufus W. Putnam, Executive Officer
F. J. Hortig, Asst. Executive Officer
Kenneth C. Smith, Supervising Land
Title Abstractor
Mrs. Julia Stahl, Secretary

ATTORNEY GENERAL'S OFFICE:
Messrs. Jay L. Shavelson, Deputy Attorney General
John S. Hassler, Deputy Attorney General

APPEARANCES:
Senator John J. Hollister, Jr.
Assemblyman James L. Holmes
Mr. Paul Lower, Superior Oil Company

RE: SANTA BARBARA
Messrs. Stanley Tomlinson, City Attorney, Santa Barbara
Vern Thomas, District Attorney, Santa Barbara County
John T. Rickard

RE: LONG BEACH
Messrs. Harold Lingle, Office of City Attorney
Sam Vickers, City Manager
Philip Brady, City Attorney

Reporter:
Louise H. Lillico
Division of
Administrative Procedure
<table>
<thead>
<tr>
<th>NAME OF ITEM</th>
<th>ITEM NUMBER</th>
<th>PAGE ON CALENDAR</th>
<th>PAGE OF TRANSCRIPT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bayles, Leland L.</td>
<td>8</td>
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<td>13</td>
<td>6</td>
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<td>1</td>
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<td>10</td>
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<td>23</td>
<td>81</td>
<td>25</td>
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<td>1</td>
<td>20</td>
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<td>18</td>
<td>33</td>
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<td>22</td>
<td>79</td>
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<td>4</td>
<td>15</td>
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<td>12</td>
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<td>1</td>
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MR. PEIRCE: The meeting will come to order. Governor Powers is on his way and we will take up certain routine items before he arrives.

First of all, the minutes are O.K., Mr. Kirkwood?

MR. KIRKWOOD: The minutes are all right.

MR. PEIRCE: I looked them over and they appear to be in order. The minutes will stand approved as written and so will be the order. Now, which items do you want to take up? Do you have some routine items?

MR. PUTNAM: We will start here on page 1, I would think.

MR. PEIRCE: You have a couple items on the Monterey Oil Company about extending their permit at Huntington Beach. How about taking those first?

MR. HORTIG: Page 33 of the supplement, Mr. Peirce.

MR. PEIRCE: Page 33 - deferment of drilling requirements - Monterey Oil Company, Huntington Beach.

MR. PUTNAM: Frank?

MR. PEIRCE: Mr. Hortig.

MR. HORTIG: In summary, as the Commission is aware, Monterey Oil Company is lessee under Lease P.R.C. 1549.1, having conducted extensive exploration operations on the lease at Huntington Beach and from the evaluation of the data thus obtained they have decided it would be advisable to drill additional holes, but the equipment necessary for...
this type of operation will probably not be available until January 1958 and in consideration of the exploration that has gone on before and the exploration which they desire to make in the future, it has been requested, and the Staff do recommend, that Monterey Oil Company be granted a deferment until September 1, 1958 within which to drill further operations under Oil and Gas Lease P.R.C. 1549.1.

MR. PEIRCE: Any questions?

MR. KIRKWOOD: I move.

MR. PEIRCE: All right. The recommendation of the staff is approved. Do you have another item?

MR. HORTIG: We do, on an adjoining lease as held by Signal, Hancock and Richfield -- preceding page, 32.

MR. PEIRCE: Preceding page, yes.

MR. HORTIG: On the lease adjoining the lease on which you gentlemen have just acted, Signal, Richfield and Hancock as the joint lessees have similarly undertaken explorations and have had difficulties in evaluating the data, and the same type of program and results thereof will be applicable, or should be applicable, to determination of further action under P.R.C. 1551.1 Therefore, in accordance with the request of the lessees and on recommendation of the staff, it is recommended ....

(Governor Powers arrived at this point)

MR. HORTIG: .... that drilling and operative requirements be granted to Signal, Hancock and Richfield to
January 1, 1958.

MR. PEIRCE: Mr. Kirkwood moves.

MR. PEIRCE: Governor Powers seconds the motion that the recommendation of the staff be approved, and so will be the order.

MR. HORTIG: We may go to page 34, Mr. Peirce, and we could wind up this series. We are jumping geographically to another area with the same recommendation for deferment of drilling and operating requirements of P.R.C. 308 and 309 to January 1, 1958.

MR. KIRKWOOD: What is the type of lease that covers this area?

MR. HORTIG: These leases were all awarded on public bid, sliding scale. That is P.R.C. 308, 309. The two previous were awarded on specified bonus and sliding scale.

MR. KIRKWOOD: This is as good terms as we could get.

All right.

MR. POWERS: Second.

MR. PEIRCE: Moved and seconded and so will be the order. Now, Mr. Pyles, does that take care of you? You can catch your plane now. He has to catch a plane.

MR. PUTNAM: I think Long Beach wants to catch a plane too.

MR. PEIRCE: Now, we have a number of people here from Santa Barbara and I wonder if we can't go into the Santa Barbara question at this time. You have a progress report
report with respect to that, Colonel?

MRS. STAHL: Page 79.

MR. PEIRCE: Mr. Thomas is here. Is Senator Hollister here?

SENATOR HOLLISTER: Yes.

MR. PEIRCE: O. K., Jack, you were hiding. And Assemblyman Holmes? He was here a minute ago. Now, let's proceed with the Santa Barbara item. Colonel, are you going to handle this or Mr. Hortig?

MR. PUTNAM: Mr. Hortig. I had a slight smashup and can't talk too well.

MR. PEIRCE: That's too bad. Mr. Hortig, will you proceed?


MR. HORTIG: At the meeting of the Commission on May 13, the Commission authorized the Executive Officer to appear before the Council of the City of Santa Barbara at a hearing on May 23rd to oppose the proposed annexation of tide and submerged lands. At the hearing the State presented data relative to the estimated value of the area proposed to be annexed, estimating a value of $40,000,000 for these lands. This view was disputed by consultants for the city and Pacific Gas Lighting Supply Company supplementally made independent presentation, contesting the valuation of the lands held by them as evaluated by the city. The appraiser employed by the city made value determinations as shown at
the bottom of page 79 in the calendar before the Commission, following which the city accepted these appraisals and by unanimous vote passed an emergency ordinance annexing the offshore sanctuary area and airport. Representatives of unincorporated area adjoining expressed their views. Following this, a resolution was passed ending the proceedings and there is a final annexation ordinance to be effective the end of this month unless the ordinance is revised or modified as a result of further representations of the City Council of the City of Santa Barbara or as a result of judicial review.

MR. POWERS: Well, in the question here, Mr. Hortig, Mr. Chairman, there isn't any argument on "A" - "The State of California is the owner of over fifty percent of the value of the lands"? There is a question of the value of $40,000,000, but there isn't any question of the percent?

MR. HORTIG: As far as the area, the State is probably owner of ninety percent of the area, but the question is of the value.

MR. POWERS: I am speaking of the percent of the value. You say here "Fifty percent of the value of the lands proposed to be annexed". I am just asking this question. I see they question the $40,000,000, but do they question the fifty percent?

MR. KIRKWOOD: You see the values down there at the bottom. $1,600,000 is all they gave to the tide and
MR. POWERS: Well, I can't get this straight in my mind. They question the value of $40,000,000.

MR. HORTIG: Right.

MR. POWERS: You can see that. But then the State of California is owner of over fifty percent of this property of the value .......

MR. HORTIG: I think I can clarify that, Governor.

Our contention was that inasmuch as our evaluation of the State lands was $40,000,000, that that $40,000,000 is more than fifty percent of the total value of all lands proposed to be annexed. However, the City of Santa Barbara in their own appraisal assigns only $1,600,000 on the same land we value at $40,000,000, and $1,600,000 is less than fifty percent of the total value by the city's appraisal.

MR. POWERS: Then if we took it down to the city's appraisal, we have a percentage on that $1,600,000?

MR. HORTIG: We have the percentage on the $1,600,000.

The $1,600,000 is less than fifty percent of the municipal airport, the University of California property and the Pacific Lighting Reservoir as valued by the city.

MR. POWERS: I see.

MR. PEIRCE: Mr. Kirkwood.

MR. KIRKWOOD: I was going to say, Mr. Chairman, it was my recollection that last time we authorized the staff to

MR. POWERS: That's right.

MR. HORTIG: I think the staff had the data and the figures that we could do it.

MR. POWERS: Well, I think we can do it.
go down and file the protest and to appear in Santa Barbara, 
more or less after consultation with the Attorney General's 
office, in the feeling that this was the only way the State 
could protect its interest in this property and all .......

MR. PUTNAM: Not the only way, sir. There is still 
court.

MR. KIRKWOOD: I mean that was the necessary first 
step. I am curious as to what the reaction of the Attorney 
General is at this stage of the game, as to what we should 
do. Do you have a recommendation?

MR. HASSLER: Mr. Kirkwood, we appeared at the meeting. We 
offered affidavits -- I am now addressing myself to the 
$40,000,000. We offered affidavits of this to Mr. Lewis 
(phone) and Mr. Lewis testified the value of $29,000,000 
plus a bonus value of $5,000,000, or a total of $34,000,000. 
The city, I think had determined correctly, that they would 
receive hearsay evidence in the nature of an affidavit only 
as cumulative and would not allow it to support a finding. 
I think the State put on testimony of $30,000,000, not 
$40,000,000.

It is my opinion and I am reasonably sure it is the 
opinion of the Attorney General -- I qualify that because 
I have not personally talked to Mr. Brown about it -- it is 
my opinion that the city was bound to accept the testimony 
offered by the State, the testimony we offered, as conclusive 
on the city; and the city must make a determination in the
nature of a determination a court would make, of findings of fact on evidence conclusive on the court. It is my opinion that the Public Resources Code, which gives exclusive jurisdiction to State Lands, means that only the State Lands Commission can assess an appraised value. It is necessary to get a proper appraisal. We have access only to information the State Lands Commission can have, can possibly be available to anybody under the law or any way. I think it makes sense that the State Lands Commission alone may assess the value of the land. I think the city erred in law and that the annexation, purported annexation, was illegal. There were other grounds for error, but I think the only one that would immediately concern the Commission was the one I just mentioned.

MR. KIRKWOOD: It is your suggestion, then, that we should take further action in this matter?

MR. HASSLER: Yes sir, that would be my suggestion.

MR. KIRKWOOD: Mr. Chairman, I do not know what kind of a hearing we want to conduct on this, whether you want to formalize this by a motion or not. I think with the Attorney General suggesting that we should give him the authority to take further action, offhand I would say we should. I don't want to cut anybody off from arguing for or against ... 

MR. POWERS: We don't have any alternative.

MR. PEIRCE: We are guided on questions of law by the recommendations of the Attorney General and Mr. Hassler has
expressed his opinion that the Attorney General's office should proceed to protect the State's interest in this regard; and I infer from what you have said, Mr. Hassler, that you are requesting that we approve the procedure that you have outlined and that on the basis of our recommendation you will proceed in behalf of the State.

MR. HASSLER: Well, yes, as attorney for the Commission, it being entirely up to the Commission what it wants to do; but if it is the pleasure of the Commission, we will certainly take it up. It is my opinion that it is an error of law. There was reason for appearing at the hearing and I would suggest that we go ahead.

MR. KIRKWOOD: I would so move, Mr. Chairman.

MR. POWERS: I will second that.

MR. PEIRCE: The motion has been made and seconded, but before the question is put .... Mr. Tomlinson, you are City Attorney representing Santa Barbara?

MR. TOMLINSON: I am the incumbent City Attorney, Mr. Chairman and members of the Commission, and have taken office on June 1st. I would like to make this expression in response to Mr. Kirkwood's comment and in reference to the Chairman's own comment on the matter of the Commission's, the Land Commission's recommendation. It occurs to me, sir, or gentlemen, that the Attorney General as the law officer of the State of California -- and I am quite sure this is sound -- may on his own motion proceed in behalf of the State
of California if he feels that the State is aggrieved, particularly in a matter of law. I would see or recognize no necessity for this Lands Commission, as a stage agency, making a recommendation to the Attorney General to proceed to litigate a highly controverted question of law.

As stated by Mr. Hassler, as I understand his point, the principal point he is urging now is the basis of error in the annexation proceedings, that the State having exclusive jurisdiction over the tidelands it follows that the State and the Lands Commission have the exclusive authority of appraisal and every appraisal and for the amount of appraisal of the tidelands; that regardless of the quality of evidence adduced in the matter of evaluation, that a city in making, as directed by law to make, a finding as to the valuation, must accept without question that evidence adduced by the State in reference to such value.

Now, to digress a moment, I attended on an informal basis, unofficial basis, this hearing or a large portion thereof and audited the testimony adduced by the Lands Commission and Mr. Hassler. I also audited the testimony adduced by the city from qualified and competent oil, petroleum, geologists. Speaking of my impression at that time, I would say that the hearing was handled and conducted in an eminently fair and proper manner and the record will so show. A transcript -- I mean the hearing was reported -- a transcript is being prepared. It is extensive. It is
voluminous. Mechanically, it has not been completed, I understand, Mr. Rickard? It will be available soon. Based on my first premise, then, I mean it will be available for the consideration of the Land Commission if it wishes, sees fit to study it further, and certainly it will be available to the Attorney General's office when it is completed.

Therefore, alluding back to my basic point, I don't believe it is incumbent in any wise or manner for this agency, the Lands Commission, to even make a recommendation to the Attorney General, who has the obvious inherent authority to proceed on his own motion in this matter; and I suggest, sir and gentlemen, that if the Attorney General makes his own determination on matters of law, so be it, but I can see no necessity legally for this Commission to make a recommendation as to the law suit. In other words, aren't we sort of transposing positions here? The clients telling the lawyer when and how to sue rather than the lawyer saying "We have been aggrieved, we will sue, we have the authority to sue on our own motion"? Thank you.

MR. PEIRCE: Mr. Hassler, what is your advice with respect to Mr. Tomlinson's comment that no action is necessary by State Lands Commission in order to permit you to proceed in behalf of the Attorney General of the State of California?

MR. HASSLER: It would be this, sir -- the Attorney
General to my knowledge has inherent authority only in the nature of ... (unintelligible to reporter). We normally, as the Commission knows, do not take a position in a lawsuit if our client does not want to. At the moment there is an annexation pending. The City of Santa Barbara passed in connection with this proceeding two ordinances, one an emergency one, effective immediately, one a regular ordinance effective thirty days after publication, which I believe will be June 30. There is an office policy or rule that if a regular ordinance will be effective, we bring a writ of quo warranto to test the validity of the urgency of the measure, which in this case is now effective. The rule of law, sir, is this — that will only lie to test an ordinance which is an accomplished fact. It cannot test a proceeding in the nature of an ordinance which is not yet completed. Mandamus or certiorari would be the remedies in that situation. My suggestion would be that the ordinance, the regular ordinance which is not yet effective, be tested by mandate or certiorari, that the papers be filed in sufficient time that the alternative writ may be served on the city at a time when the city can do something, in other words, several days before the 30th of June. In that case, the Attorney General would bring the action for the People by and through the State Lands Commission. We have no inherent authority I know of to bring an action without the direction of our client. I would say that if we are to test the
matter promptly and at this stage, we should do it by mandate or certiorari. I know of no case concerning an annexation proceeding where the Attorney General as such has brought a writ of quo warranto. We have the power, but we never do it independently.

MR. KIRKWOOD: Mr. Chairman, it seems to me, too, that we as a Commission have a real interest in knowing what our responsibilities are and what our rights are, and that was basically the reason we suggested that the protest be filed in the beginning. I can't quite concede this is a thing where we are telling the attorney what to do. The attorney is advising us, his client, on our rights and responsibilities and indicating that in the conduct of those responsibilities that we ought to authorize him to move into this situation. I think that is the proper way for us to act.

MR. TOMLINSON: May I comment in this manner -- that the Commission has before it now the very barest form of report as contrasted with a transcript of this proceeding, of I assume several hundred pages of testimony. If Mr. Hassler, if the Attorney General feels that an error of law has occurred, it seems to me that might be discussed further if we want to go into the merits of that particular point. I am sure there are others. It has been said, for example, that litigation involving this question of evaluation as indicated by this report would open a literal Pandora box of questions before a trial court, to be reviewed by higher
courts later on. I say that this report is inadequate to form the basis of an intelligent and deliberated conclusion or thoroughly deliberated conclusion of the Lands Commission at this time.

MR. KIRKWOOD: We are not binding the Attorney General to any particular course of action. As I understand it, we are suggesting that he be authorized to represent us as he sees fit in establishing our rights and responsibilities. I don't know how else you would do it.

MR. TOMLINSON: Well, Mr. Kirkwood, we still haven't eliminated the proposition that the Attorney General is the chief law officer, has inherent authority to move and act. If, as a matter of policy, they don't act unless the client agency requests them to, I can't speak to that as a matter of policy. It seems to me before we lose the point I would like to call Mr. Rickard and discuss the points you have raised, if we may.

MR. PEIRCE: Mr. Rickard.

MR. THOMAS: Is Mr. Rickard representing the City of Santa Barbara?

MR. TOMLINSON: Yes.

MR. THOMAS: As counsel, by contract?

MR. TOMLINSON: Mr. Rickard has appeared before this Commission many times ....

MR. THOMAS: I want to know if he has been appointed by the City Council? Has he been authorized by the City
to represent the City of Santa Barbara?

MR. TOMLINSON: Not formally. He was invited here today and I think he is entitled to speak as the City's representative, as he has done before.

MR. PEIRCE: Mr. Rickard.

MR. RICKARD: I am here today as a citizen of the State of California. I have previously appeared as Mayor. I am no longer the Mayor, as of the first of June. I have accompanied the City Attorney, Mr. Tomlinson, in order to hear the report of Mr. Hass, who appeared at the City Council hearing. I was the presiding officer and conducted that hearing. The hearing lasted ten hours without interruption, Mr. Chairman. There is a voluminous transcript of the record. It appears to me that if this Commission is being asked to pass judgment upon the decision of the City Council in that matter, it would be highly advisable to read the transcript before the Commission comes to a conclusion.

There were three legal points raised, two by a private corporation and one by the Attorney General, that he has presented to you here. Two ordinances have been read before the City Council, one an emergency ordinance which was adopted and is now effective and the annexation document was filed with the Secretary of the State and is complete. The second ordinance, a companion ordinance, was a regular measure following along with the emergency measure and that ordinance was voted in by the City Council and will become
effective as a matter of law thirty days after its publica-
tion, on the date Mr. Hassler has mentioned.

Now, then, I deduct from Mr. Hassler's presentation
that there is a choice between legal procedures, if any,
to be taken by the Attorney General: One in the nature of
a mandamus or injunction proceeding prior to the effective
date of the annexation; or, two, certiorari; or a quo warranto
proceeding which would be after the fact of an annexation.
It appears to me that the injunction proceedings would not
be the wise course for the Commission to take in view of the
actual effectiveness of the annexation ordinance already.
Let me state that the Santa Barbara annexation is effective
and valid at this time; that if there is to be a court re-
view, the court review should take the tenor of a quo
warranto proceeding to test its validity after the fact.
That would give the Commission ample time and opportunity
to review the transcript from the viewpoint of the evalua-
tions that Mr. Hassler has presented to you. By that I mean
that during the course of the testimony several geologists
tested. Mr. J. E. Pemberton (phonetic) and Dr. Thomas
L. Bailey (phonetic) both testified on behalf of the city
that there was no value to the tidelands whatever as of the
date of the hearing. The geologist who appeared on behalf
of the Attorney General also stated on crossexamination that
at the date of the hearing he could not place a value on oil
in that sanctuary. Our function at that time was to set the
valuation at the date of the hearing. We do not feel that
the findings on valuations are without support in the evi-
dence. We recognize the prerogative of the Attorney General
to test any of the legal points he may have in mind before
the court. We believe it should be tested on a quo warranto
proceeding after the fact of the annexation; and if he asks
the Lands Commission that they do bring such proceedings,
it would appear to me to be appropriate to the Commission
to read the transcript before making such a request. The
transcript is available. It is voluminous. The hearing
was carefully conducted by the City Council and I believe
was fairly conclusive.

MR. PEIRCE: Mr. Thomas.

MR. THOMAS: This matter of the transcript, gentlemen,
is just a matter that's going to occasion delay. I asked
for that transcript a long time ago. I haven't received it
yet. You don't meet but once a month. We are going to have
to fool around getting a transcript - getting that out and
then you individually reading it -- two or three months are
going to elapse. It's amusing to me that a suggestion would
be made to the Commission that this legal proceeding involv-
ing a legal attack on this accusation should be in one form
only, quo warranto. It seems to me your attorney generals,
who are familiar with the situation and know the legal prob-
lems involved, should not be bound by any suggestions or
dictates that Mr. Tomlinson or Mr. Rickard have informed you
this legal attack should take. I see no reason for your
individually reading a transcript which will certainly be
very voluminous, and which I haven't been able to obtain
myself recently. I think the Attorney General's position
is absolutely right, that this annexation is null and void.
The County of Santa Barbara has taken an official stand
here and if Mr. Hortig will read it, the County of Santa
Barbara will be happy to join with the State in attacking
the validity of this purported annexation.

MR. PEIRCE: Mr. Hassler.

MR. HASSLER: May I comment, sir, on Mr. Rickard's
statement? I don't think the Commission wants to read the
transcript; but in connection with the testimony that was
offered, very briefly it was this: The statement of Mr.
Lewis -- he testified that he had, which he denoted was
peculiar knowledge and nobody else present had that, he
had access to the seismic information, he knew the geology.
He placed what he believed to be a minimum of $29,000,000
and he was prepared and in his affidavit did state how he
arrived at that figure. He attributed a very low bonus
value. In connection with the statement of Mr. Rickard
that Mr. Lewis said there was no value as to the tidelands
as of the date of hearing, I don't know what he is referring
to unless it be Mr. Richard's statement that the lands are
not presently available due to the Shell-Cunningham Act,
which Mr. Lewis agreed -- the value was there, but they
can't be used for that purpose. Mr. Pemberton and the
other gentleman, Mr. Bailey, both acknowledged experts in
their field, freely admitted in cross-examination that they
had no knowledge of that area, they had no geological infor-
mation. I think, and I think the court will believe, they
are not qualified. The man whose testimony was accepted
was a real estate appraiser from Orange County. He knew
nothing of and had never appraised tidelands. He arrived
at his figure by taking the bonus bid at Summerland and dis-
counting the fact that it was several thousand an acre, came
up with fifty an acre because he said "I don't believe any
oil company would bid several thousand an acre if they have
to take 30,000 acres." We asked him whether he knew that
it is the policy of the Commission not to let parcels any
greater than 5700-acre pieces and then checkerboarded. He
didn't know it, but still would not change his opinion.
I think the gentleman was not qualified. I don't think the
findings of the City Council were supported by anything
substantial.

At the same time, I don't think it is anything in which
the Commission want to go into detail on. That hearing was
ten hours long, Mr. Rickard stated. I thought it was
longer. We didn't have any dinner, we just got tired. Mr.
Rickard was a perfect gentleman. He handled this very
beautifully. I want to compliment him for it. The City
had its position, we had ours. I think the court should
say who is right.

MR. PEIRCE: Before we make a decision, Senator Hollister, have you anything to add at this time?

SENATOR HOLLISTER: I am not an attorney. I don't know too much about these maneuvers, but I think the State should protect their interest.

MR. PEIRCE: Assemblyman Holmes?

ASSEMBLYMAN HOLMES: The only thing I have to say -- if they are basing the evaluation of the tidelands on the oil purported to be there, I just want you to keep it in mind when you start leasing the land, that you lease it as proven land and not wildcat area.

MR. POWERS: We will take note of that.

MR. PEIRCE: Mr. Tomlinson:

MR. TOMLINSON: I would like to comment this one word on the transcript. I assume the usual procedure of the staff considering the transcript would be followed and the individual members of the Commission wouldn't be burdened with a four or five hundred page chore of that character. I assume it would be by the staff.

MR. PEIRCE: Normally we would depend on the staff of the State Lands Commission to read transcripts and to delve into other sources of information that could be used as a basis of their recommendation for us; and it would depend upon the attorney general's office to do likewise, insofar as legal considerations are involved. I do not think it is
important that the members of the State Lands Commission spend several hours going through a detailed transcript of this character. We have to depend upon our advisers for detailed information on subjects of this character.

Is there any further discussion of this matter before the motion before us is put? Now, the recommendation is that the State Lands Commission request the Attorney General to proceed along the lines of Mr. Hassler's suggestion in the interest of protecting the State in connection with the proposed annexation of the area adjoining the City of Santa Barbara. Is there any further discussion?

MR. KIRKWOOD: I'd want to be sure that we are giving a general authorization and not confining the Attorney General by reason of anything that's in the transcript to any particular procedure. He ought to be free in the exercise of his judgment.

MR. PUTNAM: We will confer with the A.G.'s office on the exact wording of this to conform with what you have in mind, sir.

MR. PEIRCE: All right. The motion has been made by Mr. Kirkwood, seconded by Governor Powers, and so will be the order. Thank you, gentlemen.

MR. POWERS: Our position is the same if it is forty million or forty cents. We have to protect State property regardless of value.

MR. PEIRCE: Shall we take up Long Beach?
MR. PUTNAM: I think so, yes.

MR. PEIRCE: All right. Mr. Hortig, will you proceed?

MR. HORTIG: Page 28, gentlemen?

MR. PEIRCE: Page 28?

MR. HORTIG: Page 28 of the supplemental calendar.

The item presented here is in conformance with prior monthly presentations to the Commission, in this instance relating to the elements of subsidence costs which are to be paid during June 1957 and payroll force accounts and voucher payments other than construction during the month of July 1957, in order for the city to proceed with the subsidence remedial operations which are not covered under contracts or projects approved on a fiscal year basis as yet, as the Commission will consider in later items and which will ultimately be included in the fiscal year to be brought to the Commission probably at the next regular meeting. Therefore it is recommended that the Commission approve the costs proposed to be expended by the City of Long Beach, including subsidence remedial work, in the total amount of $264,393 as shown on Exhibit A hereof, and the estimated expenditures in the month of July 1957 in the amount of $78,000 as shown on Exhibit B, subject .......

MR. KIRKWOOD: These are the ordinary conditions. I do so move.

MR. POWERS: M-m-mh.

MR. PEIRCE: Moved and seconded. Any objection from
the City of Long Beach?

MR. LINGLE: Not on these items, no.

MR. PEIRCE: All right. The recommendation is approved.

MR. HORTIG: Page 31 of the supplemental calendar.

On May 13, the Commission approved the costs proposed to be expended by the City of Long Beach during May 1957 for certain property purchases, with the provision that no estimate should then be made of the amount of subsidence deduction ultimately to be allowed by virtue of the specified property purchase and that the City not be authorized to withhold from revenue due the State any portion of the costs.

MR. KIRKWOOD: This is routine, too?

MR. HORTIG: It became a new item at the last meeting of the Commission. In the sense that we have a precedent from last month, it could be considered routine but is still subject to objection by the City of Long Beach.

MR. LINGLE: Yes, we will accept your approval, naturally we wish your approval. However, I don't want it to be taken by the fact I am present and don't say anything, being the representative of the City Attorney's office, that we assent in the interpretation of the Attorney General's Office and I do not know whether the notice made here means it's the ultimate conclusion. We have had conferences, I need not go into that, there has been one conference between representatives of the City and the LandsCommission and we understood there were to be further conferences on the question.
I do want to make sure that my being present and if I were silent would not be interpreted that the City in any manner assented to the interpretation of the Attorney General as to whether or not the purchases of these lands are elements of subsidence costs.

MR. PEIRCE: Mr. Shavelson.

MR. SHAVELSON: There was attended by Mr. Friedman, myself and the State Lands Commission, a conference in which we stated our position as to these acquisitions and the City of Long Beach has asked for a written statement from us on this and other matters, which will be sent in the next few days. In the meantime, the purpose of this item is, the staff and ourselves prepared it so as to preserve the status quo, so that this difference of opinion will prejudice neither the State nor the City, regardless of the final disposition made of this; and there is no intent to bind the City nor the State to any particular position, but merely to assure that they have the prior approval to the extent that it is finally determined the amounts are deductible.

MR. POWERS: I'll second.

MR. PEIRCE: Moved and seconded. The recommendation is approved. So will be the order.

MR. HORTIG: Page 35, gentlemen. In summary of a rather voluminous item occupying the next ten pages, 35 to 45, the tabulations represent the project proposals by the City of
MR. POWERS: That's 35 to 45?

MR. HORTIG: 35 to 45, yes sir -- all of the items which could be included in projects which could be approved on a fiscal year basis, as the Commission during the last fiscal year approved some of the work on projects. This now represents the majority, approximately nine out of twelve ultimate projects, that can be approved on a fiscal year basis, on which submittals have been made by the City of Long Beach, which have been reviewed by the staff and are recommended as tabulated herein, that the Commission approve the costs proposed to be expended on the individual tabulations following, subject to what have been the standard conditions for both fiscal year and monthly approvals here before.

MR. KIRKWOOD: I do not think there's anything here ...

MR. HORTIG: This is the 1957-58 extension of the program we followed for 1956-7.

MR. PEIRCE: No objection?

MR. LINGLE: No objection.

MR. PEIRCE: Moved and seconded, so will be the order.

MR. HORTIG: Page 81, gentlemen, the last of the Long Beach items -- thin in pages, but thick in content.

MR. PEIRCE: All right.

MR. HORTIG: In February '57, in compliance with Chapter 29 of the Statutes of 1956, the Long Beach Harbor Commissioners
submitted to the Commission for approval an amendatory agreement constituting an amendment to each of six respective drilling and operating contracts in existence between the Board of Harbor Commissioners of the City of Long Beach and the Long Beach Oil Development Company relating to tidelands oil development on designated parcels on the area previously granted by the State to the City of Long Beach.

The proposed amendment would provide for an extended water injection program within specified blocks in the Wilmington oil field for the purpose of greater production of oil than would be had from primary methods. Comprehensive study has also been conducted by a consultant engineering firm from Oklahoma retained by the Harbor Commission group, who are specialists in the field of water flooding as a secondary recovery method, who have reported favorably.

The proposal has also been reviewed by the staff and the Attorney General. The amendment is drafted in broad terms to provide the operating flexibility required by a proposition of this nature. In water injection, it is possible that liability may occur by water encroaching into adjoining leases. This is restricted to tidelands areas only and therefore adjoins upland operations. Insurance against such encroachment would be prohibitive if obtainable at all. In view of this possible liability, a continuous check will be maintained by the State in order to control the advance of the
water. Some area unitization will be required undoubtedly before the water reaches adjoining land ownerships. Basic control of the operation under this amendment will be in the City and the contractor, Long Beach Oil Development Company. The State will have access to all data and operational information and the control provided by the following modifications to the amendment by specification of -- and these are the staff recommendations -- (1) A four million dollar limitation upon expenditures which may be made under this project without further approval of the State Lands Commission. That four million dollars is the total contemplated initial cost of the operation as proposed by the City of Long Beach, with an adequate factor of safety in addition. In any foreseeable operation within the scope proposed now, the four million will not be expended.

(2) Requirement for approval of State Lands Commission of any termination of the water flooding project. As currently drafted, the amendment would provide that once the Commission had approved it, the City could terminate it at any time at their own discretion, without notice or comment or report to the State Lands Commission. As a matter of fact, it could result in a retroactive report that the project had been terminated some time back, except that it would be known to the State by reason of its continuing field inspections of the operation.

(3) Definitions of the phrases "maximum economic recovery"
and "ultimate maximum economic recovery". On that point I should like to report to the Commission that the City of Long Beach as of yesterday delivered a declaration of construction, defining the phrase "ultimate maximum economic recovery" as it is to be interpreted under this amended contract, which declaration is executed on behalf of the Long Beach Harbor Commission and the Long Beach Oil Development Company. It is very difficult to assign a definition, nevertheless having a definition in writing that all parties will work toward will accomplish the purpose of this requirement which we have listed in Condition 3, leaving only two conditions to be discussed this morning.

Therefore, it is recommended that the Commission approve the amendatory agreement with respect to the six drilling and operating contracts, as submitted by the Long Beach Harbor Board, subject to the adoption of the following additional amendments, either by way of amendment of the contract or by separate letter of understanding in whatever area the Attorney General's office would feel it is mechanically practical to do so. The two requirements are that there be included a four million dollar limitation of expenditures which may be made on this project without further approval of the Commission and (2) a requirement for approval of the Land Commission on some form of cooperative review and understanding as to termination of the water flooding project.
The City of Long Beach certainly wish to make a presentation on this.

MR. PEIRCE: Mr. Vickers.

MR. VICKERS: Thank you, Mr. Chairman. My name is Sam Vickers, City Manager, and we have other representatives of the city today assembled here, Frank Hardesty, petroleum engineer, and Mr. Philip Brady, City Attorney, representing the city in this matter. In the staff report you have, there is concurrence in the amendment here before you except in some minor details.

Number 3, as mentioned, the definition of maximum economic recovery and the ultimate maximum economic recovery — there was an agreement on this point and we suggested that this matter be handled by letter so as not to require going back and actually amending or changing the amendment itself, the contract itself.

Now, there is disagreement on items 1 and 2 and in discussing it let me go back briefly to AB 77, the compromise bill by the Legislature roughly a year ago. This bill gave the State Lands Commission the right to approve all future contracts and the right to approve all amendments to existing contracts, and it requires that any future contracts be let by competitive bidding and requires the filing of the forms for competitive bidding with this body and requires your approval. Those items we accepted in their entirety. It also contemplates, and it's the general
policy of the State, that there shall be full local powers covering operations, that the City will act as a trustee, and we feel that we certainly are competent, and the policy to date is that the State shall share in the proceeds.

If you will note in the recitation here by the staff, the paragraph leading up to these items - "Control of the operation will be in the city and the contractor; that the State will have access to all data and operational information." We certainly think that is appropriate and necessary. But they go on to say "and the control provided by the following requested modifications ....."

Here we come to a change in policy, where we have an encroachment upon local economy, the control of the city. These provisions are just not acceptable to the city. We suggest in lieu thereof, a full accounting and recitation here to the Commission before actions such as are contemplated are taken. If we should exceed the four million dollars in this program, we certainly would agree to submitting the information to this Board and fully apprising you of the fact before such action is taken. Secondly, if we find it is necessary to cease operations, we certainly think it would be appropriate to inform you adequately and carefully, with a full recitation of the facts, before the action is taken. But we just cannot accept and do object and hope you will continue the current policy and not require this additional control which is suggested here. Our
suggestion would be, and we certainly urge, that you consider our request. It's a very serious one with us. We hope our intentions in this matter will be in a supplemental letter and the contract will go through as it is. You have one important matter involved in an action of this type, that is, the appropriation for the Long Beach Ship Yard in the way of subsidence money. We have had a hearing just recently before the House Subcommittee, so we are expecting an early answer as to our success in getting along with the voluntary water injection program. It is important to us and we certainly hope you can favor us in continuing the present policy of the State.

MR. HORTIG: In view of Mr. Vickers' comments, this may be as much a problem in semantics as anything. I certainly think I can assure, on behalf of the staff, there wasn't any ulterior motive or change in policy in the word "control". As a matter of fact, looking at it now and in that light, to clarify it, it could just as readily have read and possibly will "and the assurance of requested modifications" rather than the "control".

Our problem in recommending approval of this contract was that in the form in which it is stated, immediately upon approval by the Commission without a limitation the Commission would have signed a blank check insofar as expenditures which the City of Long Beach could undertake in connection with this project, which the City's own engineering estimates
indicate not more than three million dollars, on which we have added for safety another million, making it four million, which they may never reach; and while this is all that is foreseeable with respect to the scope and magnitude of this project, Mr. Vickers feels that there should be no such limitation stated, that once the project has been approved by the Commission the only further requirement on the City of Long Beach be that they report to the Commission what excess funds they would expend, but those excess funds would have approval without going into them.

As to the water flooding, I believe that can be covered very definitely in the manner covered by Mr. Vickers, on the firm understanding that there will be the cooperative notice and discussion any time that it should appear to the City that the project should be terminated, in order that all parties can be informed.

It is the non-cooperative language of the amendment -- which, in effect, says once the Commission has approved this the City can proceed and has no obligation whatever to give notice to the Commission -- that caused the drafting of this suggestion, that we have a basis for understanding on that point.

From Mr. Vickers' statement, I believe we have the basis for the understanding, or simply an understanding here that this project is going to be operated cooperatively, without the Lands Commission wishing to change policy, going
to be operated cooperatively so that the Lands Commission through its staff can be reasonably informed of what is going on, is the simple goal to be achieved.

That gets us to the one question, whether the Commission feels it is desirable, as a condition to approving the contract, to approve a contract without any dollar limitation whatever. If there must be an approval under the present statutes, there must be a reason for approval, and I do not feel that simply automatic approval without reviewing the contents of the contract or without suggesting modifications or conditions was ever contemplated under Chapter 29.

MR. PEIRCE: If we should approve this limitation, it's always possible to review the matter at some future date, isn't it?

MR. HORTIG: At any time -- and the factor of safety that was put in the suggested limitation was predicated on the thought that this would give a time in which the City could discuss with the Commission any further augmentation and would, under any reasonable operating circumstances, give adequate time so that at no time would the project be hampered in any way by this limitation as long as the project stays within the concept of the present amendment; and I feel if the concept is changed, I feel in all equity the City should present it to the Commission for approval. This would be an amendment to the amendment.
MR. PUTNAM: Mr. Shavelson has put some thought into this.

MR. KIRKWOOD: The way the amendment reads, it says "We are asking for an amendment to the agreement." That isn't necessary, is it? The language from the City is all that would be necessary.

MR. HORTIG: Yes, whatever would accomplish the mechanics of it.

MR. PEIRCE: Jay?

MR. SHAVELSON: We did write a rather lengthy, informal opinion on this contract pursuant to Colonel Putnam's request. The main function of our opinion was to point out the consequences of the language. We don't think that there are any inherent limitations on what the Commission may approve, except the very general one, that we feel that the Commission should not give approval in such broad terms that major policy changes could be made within the terms of the amendment without further action by the Commission.

I think we agree essentially with Mr. Vickers, that the City remains trustee and has the day to day responsibility for carrying out the policy objective, but that they shouldn't be able to change that policy objective without coming to the Commission.

MR. VICKERS: Mr. Chairman, this in our opinion constitutes really the first inroads into local control and to our operation as trustees, so we are quite concerned with it.
We like the suggestion here of Mr. Hortig and we would be favorably to writing a letter to you. There is considerable cushion in the four million dollars -- we do not anticipate we will reach it. If we do, the more that's expended, the more it gives into the City's revenue and the State's as well. We certainly would agree to review with the Commission our full situation if there is an expenditure over the four million dollars and our reasons for making the expenditure.

Secondly, we would agree by letter to fully advise the Commission of any prior termination of the agreement and we are hopeful we can work this out that way.

MR. K..KWOOD: I can't quite understand why this is a different policy. You are setting up something new here, Mr. Vickers. As I understand our responsibility, it is to review the projects that the City undertakes and be sure from the standpoint of expenditure and soundness of them that they are in the best interests of the State of California, as well as the best interests of the City of Long Beach; that once having approved a given project, the administration of the project is by the City. But where you have a contract, as I understand this one is, that is sort of open-ended and if we approve the contract in toto we also in effect delegate to you our authority to pass on what might be quite radical changes in the project and radical changes in the concept of the amount to be expended, to that extent.
it seems to me we are going beyond our authority if we approve this. I don't see that we are changing the principle under which we are operating.

MR. VICKERS: If we can go back to AB 77, it deals with our responsibility to the State and we spent a number of weeks working with a member of the State offices. This was one of the important points -- this bill was a gentlemen's agreement, compromise on the bill, and it left full control with the City.

MR. KIRKWOOD: What full control?

MR. VICKERS: Full control over all operations in the field area as trustee.

MR. KIRKWOOD: You mean if you came up to us and said "We want to spend $75,000,000," half of which would come out of State funds, that we have no right to review that expenditure? It is my understanding we do.

MR. VICKERS: The expenditures you are reviewing are expenditures made pursuant to a formula here.

MR. KIRKWOOD: I am thinking of the actual operation of the property and nothing that's going to come under the subsidence thing.

MR. VICKERS: Section 10 here refers to future contracts, royalty arrangements. Those are to be brought before you. It covers the matter of bidding on future contracts and the plans must be brought before you. It has the broad general language that amendments to contracts must be brought before
you for your approval. These are acceptable, of course, in the law and that's what we are doing here.

MR. KIRKWOOD: We are not, certainly, supposed to just rubberstamp those approvals, are we, Mr. Vickers?

MR. VICKERS: No, but we don't think we ought to go behind this agreement and start tying the hands of the trustee, a reasonable trustee. Certainly we are diligent and we think we should operate as a trustee without strings.

MR. KIRKWOOD: I don't think we are asking for control on detailed things, but my understanding was, and I thought we discussed this at an earlier meeting, in a sense this Commission retains budgetary control for the State, to see that State funds are not misspent; and in order to do that we have to review, in effect, the engineering feasibility of the project and also the cost of that project, and if we feel that either of those is out of line then it would be our obligation under the act you have before you to refuse to approve.

Now, once having approved those aspects, then the administration is completely in your hands and you have the local control. Am I wrong in that interpretation of the act?

MR. VICKERS: Mr. Brady will talk on the problem.

MR. BRADY: Mr. Kirkwood, I agree with you that since we have Chapter 29 1956 with us, that it is not the position of the City of Long Beach that they can come up and say...
"This is what we are going to do" and you say "All right" and give it a rubberstamp approval. I think you are correct in that regard, because while the local direct operation is vested in the Board of Harbor Commissioners, the State still has a financial interest to protect and based also upon the sound economic feasibility of the project itself. That's what we are here for today. I think we came prepared with a scientific engineering study by Mr. (not intelligible) which I think the Lands Commission staff is in accord with.

We now have an amendment which indicates that this project will entail the expenditure of four million dollars and Mr. Hortig has pointed out there is a reasonable cushion of one million dollars' latitude. That was suggested by Mr. Kealer, one of the members of our local council, he being familiar with the oil industry, to cover those instances where, in this water injection program, it might be necessary to offset certain ... Mr. Hardesty, our engineer, could explain more details if you desire to hear them.

We have more or less agreed in principle upon the four million dollars, that is at the outset of the amendment. Now, the four million dollars as such is inherently tied in with the operation; in other words, how that four million dollars is going to be spent, what it is going to be utilized for, and how the program is going to be developed.
I think you are absolutely right, that if we came to you with the representation that this was going to cost four million dollars and then turned around and started to build up eight, ten, eleven million dollars in cost over the four million initially approved, that that would not be the intent of Chapter 29, nor is it in keeping with our present thinking. But when we get into the proximity of the total use of that four million dollars and see that the program is going to need perhaps another five hundred thousand or something like that to go on, we feel that that is such a part of the operation itself that we should have the flexibility of carrying the program to its conclusion.

However, it was the thinking of both the Harbor Board and the City Council that the State does have direct financial interest in the proceeds to be derived and that before we came to the point where we would have to exceed that four million dollars that a complete explanation should be given, based upon engineering survey and data that would be supplied, which would justify that expenditure. I think when we get to that point that the thinking of the Lads Commission staff and that of our own petroleum division will be in accord as to whether that excess amount will be necessary. I think you are absolutely right that it would not be anticipated that we would start with a four million dollar project and skyrocket it to ten or twelve million.

MR. KIRKWOOD: Or that the program which, as I understand
it has been outlined, calls for certain types of drilling and certain locations, and so on, but the contract is broad enough that that could be doubled in scope or tripled in scope if we approve the contract without setting a limitation on that. Am I wrong on that? That was my understanding, that the contract is wide open. Unless we say if you have an expansion under the contract that you come back to us for approval, an extension of the type of thing you are proposing, then it seems to me we aren’t holding what the bill says we should hold -- our check on the thing.

MR. BRADY: Of course the contract and the operation under the contract is based upon good oil field practice and I think the Lands Commission staff will concede that the operations of the Petroleum Division of the Harbor Department of Long Beach has done a pretty fair job to date. I think it comes down to this, shall we say the credence or the good faith with which the Lands Commission is going to entrust the local Harbor Board in future operations is in the proposed amendment. I think we envisage close cooperation with the Commission. I think that perhaps the other position to take, the other remote extreme of going wild, the Harbor Board has never done that in the past and I see no reason why they would do that in the future.

MR. PUTNAM: Mr. Chairman, our only thought is that we did not want to give them a blank check; put some limitation
well above their present estimates that will give them plenty of time, in case their type of operation changes or the extent of their operation changes, to get a modification of this limitation. Now, I think that's very reasonable.

MR. KIRKWOOD: If the project has the approval -- I mean, if the things that were set out as what is proposed to be done has the approval of the staff, I can't get too excited about some slight overage in the cost of putting that project into operation. If it makes sense to embark on the project, I wouldn't expect that if it ran to four or five instead of four, or something of that sort, as long as that project was adhered to, that we would be arbitrary at all in approaching it.

On the other hand, if quite a different engineering thing is developed and put into operation under this contract, which I understood it could be, then it seems to me that ought to be brought to us for review.

MR. BRADY: Mr. Chairman, may I make one further observation we might have overlooked. I think the economy of the contracts themselves will control the expenditures Long Beach Oil Development would make. They are anxious to get into this contract related to the balance of their term, which is approximately up at the end of March or April of 1964. That's why, economically, they have to have a pay off in order to get their reimbursement under the percentage of the drilling and operating contract, as a matter of
practicality. I would think the Board would be in a very difficult position to attempt to get the Long Beach Development Company to expand in excess of the four million if they could not see that they were going to be in the balance of the contract able to receive that from the increased rate of production.

I agree with Mr. Kirkwood there is an area there where you have a reasonable overage, where the flexibility in that regard should be left with the Board as a part of management. I agree also with you gentlemen, that you should not have an open-end agreement. I think the practicalities of the situation will adjust themselves to the four million and long before, if any amount other than a very nominal sum were to be expended under this program, I think it would be only right that the matter be discussed fully with the Land Commission staff and anybody you deem necessary.

MR. KIRKWOOD: Jay, do you think that some official action by the City would be sufficient or do you think we have got it clear enough as to what's anticipated here? Would we be safe in making a motion that on the basis of the presentation which Mr. Brady has made as to reference back to this Commission we would approve, or do you feel we need a supplemental letter or something similar on the three points?

MR. SHAVELSON: I didn't understand Mr. Brady would
permit the City to come back to the Commission if it is their intent to exceed the four million, did you?

MR. BRADY: Yes. Might I say that if we are in a position where we saw the four million was going to be exceeded, we would have a full explanation sufficiently in advance of any contemplated advance over the four million and present that to the Commission and the staff, giving all the details and data as to the reasons why.

There's one other thing I think we should take into consideration -- the fact that the economic limitations of the term of the contract, I think, is going to automatically take care of the ultimate amount which will be expended on this project.

MR. PEIRCE: In the light of this discussion that has taken place, Mr. Hortig, do you desire to modify your recommendation? You mentioned that the points of difference were largely matters of semantics.

MR. HORTIG: Yes sir and, additionally, as distinct from the printed recommendation you have before you, in inverse order, the necessity for point 3 has, I believe, been eliminated by the filing by the City of a declaration of construction as to the phrase "ultimate maximum economic recovery". Point 2, Mr. Vickers has indicated can be covered by a letter statement by the City and I would feel that the point in the recommendation would be made by such filing by the City.
However, as to Point 1, may I suggest that it occurs to me from the additional discussion we have had, there doesn't seem to be any difference of opinion but that four million dollars is probably a reasonable initial limit on this project. As a matter of fact, Mr. Brady points out that by the economic limit on existing contracts it is doubtful this limit can be reached outside of any expressed limitation. I would like to raise the question whether the City of Long Beach would feel it would be undesirable of the Commission giving approval of this contract subject to the condition that the approval be limited to expenditures not to exceed four million dollars under the contract, unilateral limitation on the part of the Commission's approval.

MR. PUTNAM: Well, then, it boils down, Frank, to striking out on page 82, Recommendation #3.

MR. HORTIG: Yes.

MR. PEIRCE: And #2.

MR. HORTIG: And #2, being understood to be made by a filing by the City.

MR. KIRKWOOD: In other words, what you are saying is we would approve the contract subject to our retaining the right to review, in the manner suggested by Mr. Brady a minute ago, any expenditure over four million.

MR. HORTIG: Right.

MR. BRADY: I think that would be the most diplomatic
way of handling it. It would eliminate the complete re-
writing of the amendment, which would mean going back to
the Harbor Board and the City Council. If we could cover
this by a letter on the principles we have discussed and
it could be made part of the file, then we could go back
and prepare the authorizing resolutions, because under our
charter it's going to require a thirty-day waiting period
after it has been executed by all parties.

MR. SHAPELSON: As I read the amendment, the City
must authorize all expenditures made by Long Beach Oil
Development Company, therefore a unilateral agreement by
the City without the concurrence of Long Beach Oil or in
concurrence with the amendment would be binding with the
City without changing the amendment at all.

I was wondering -- are we talking about a consultation
before spending over four million dollars or are we talking
about getting further Commission approval?

MR. KIRKWOOD: Can you go back and read Mr. Brady's
statement. (Reporter read back a portion of Mr. Brady's
testimony) (Page 39 Lines 8 through 19)

MR. BRADY: I was going to say, when we get to that
point of exceeding four million dollars, it is only going
to be because the project, in my limited way of thinking,
has become a successful one and should be expanded and I
think that would be mutually to the City's interest and
to the State's interest.
MR. PEIRCE: Well, it appears that we are in agreement, is that not true? What is your pleasure, gentlemen?

MR. KIRKWOOD: I make the motion subject to the understanding ...

MR. PUTNAM: It strikes me the matter is one of working out details with the City under the general authority granted here.

MR. SHAVELSON: These would be memorialized by written statements from the City.

MR. PUTNAM: In other words, if the City came in two years hence and said "This project is going to take five million dollars instead of four" we would ask for justification and they would supply it, I am sure, and we would submit it to you gentlemen. Is that about right?

MR. BRADY: Yes.

MR. PEIRCE: Mr. Kirkwood moves the recommendation as modified.

MR. POWERS: I second.

MR. PEIRCE: And Governor Powers seconds the motion. So will be the order. All right, Mr. Hortig.

MR. HORTIG: There are no further personal appearances, Mr. Peirce, on any scheduled items. Therefore, if the Commission please, we can start on page 1.

MR. PEIRCE: Will you proceed?

MR. SMITH: Sale of Vacant School Land. An offer has been received from Mr. John Farrell on 58.78 acres in
Siskiyou County. Subsequently, an application was filed by the Department of Fish and Game to purchase the lands and their desire to purchase is that the land is desirable hunting area and usable by the public and will provide access to the waters of Indian Tom Lake, which is under the jurisdiction of the Bureau of Reclamation.

MR. KIRKWOOD: I move the approval.

MR. POWERS: Yes.

MR. PEIRCE: The recommendation is approved.

MR. HORTIG: Page 2.

MR. SMITH: Page 2 - The recommendation: It is recommended that the land described in the calendar, containing 322.80 acres, be sold to the highest bidders, Edward J. Libby and William E. Asimow, at the cash value of $6,133.20, subject to all statutory reservations, including minerals.

MR. PEIRCE: No controversy involved?

MR. SMITH: No controversy.

MR. POWERS: That's O.K.

MR. PEIRCE: Item is approved.


MR. SMITH: This is a sale of vacant school land, application by the Department of Fish and Game. It is recommended that the Commission authorize the sale of 40 acres in Imperial County to the State Department of Fish and Game without advertising, for the sum of $2,000 plus costs, or a total of $2,069.80, subject to all statutory
reservations including minerals.

MR. POWERS: That's assessed at $2 and sold at $50?

MR. SMITH: They own all the surrounding land.

MR. PEIRCE: The recommendation is approved.

MR. HORTIG: Page 7.

MR. SMITH: Mr. Ralph R. Leavers has requested restoration to public sale of eighty acres in Siskiyou County. Based upon discussion with Mr. Leavers and information in the aforesaid request, he has been negotiating with the United States Forest Service for the purpose of working out a private exchange. The Forest Service is desirous of acquiring title to this land and suggested to Mr. Leavers that he purchase the land from the State and in turn offer it to the Forest Service on a private exchange agreement.

Past history is that in 1947 an application for purchase was filed by Mr. C. E. Patty. The Commission at that time rejected the application and set the land aside for exchange with the Federal Government, on the basis of suggestions of Senator Collier that the land be retained in public ownership. It is part of the Marble Mountain Primitive Area in Siskiyou County under Federal ownership and it is his suggestion that it is desirable to retain Federal ownership. The land if restored to entry ......

MR. KIRKWOOD: I'll move it.

MR. PEIRCE: The recommendation is approved.

MR. SMITH: It is recommended that the Commission determine that it is to the advantage of the State to select Federal land, 291.33 acres in Kern County, not suitable for cultivation, and authorize the sale pursuant to the rules and regulations of State Lands. It is a case where the sale is by public bidding...

MR. POWERS: That's O.K.

MR. PEIRCE: The recommendation is approved.

MR. HORTIG: Page 10.

MR. POWERS: This is a case where the State buys Federal land?

MR. SMITH: That is correct, sir. Under exchange procedure, an offer has been received from Delbert James Sargent on 220.125 acres in Imperial County. Originally the State filed an indemnity selection in his behalf to acquire the land. That was rejected because of the land being in withdrawal status and the State in turn filed an exchange application. Under that procedure normally it would be sold by competitive bidding. He has a lease with the Federal Government for the use of that land as a tropical fish hatchery. He is desirous of having a determination by the Commission as to whether, if the State is successful in acquiring the lands, they will be sold by competitive bidding. Our recommendation is that in the event the State is successful in acquiring the land, that the Commission authorize the sale to the applicant at the appraised market.
value without competitive bidding. He has improvements on
the land to the extent of around $20,000 under his lease
with the Federal Government.

MR. KIRKWOOD: I believe Howard (?) checked this out
with you this morning.

MR. SMITH: Yes.

MR. KIRKWOOD: Actually, there are no rules and regu-
lations. In the third paragraph "sold by competitive bidding
pursuant to the rules and regulations of the State Lands
Commission..." As I understand it, it isn't something
spelled out.

MR. PUTNAM: It is not spelled out in the rules. It
is the policy to sell them under competitive bidding.

MR. KIRKWOOD: But we don't have to amend a rule or
anything? I approve it.

MR. POWERS: M-m-mh.

MR. PEIRCE: The recommendation is approved.

MR. HORTIG: Page 11.

MR. SMITH: Sale of vacant Federal land. It is recom-
mended that the Commission determine that it is to the
advantage of the State to select the land in the following
cases; not suitable for cultivation, and authorize the sale...

MR. KIRKWOOD: That's O.K.

MR. POWERS: O.K.

MR. PEIRCE: The recommendation is approved.

MR. HORTIG: Page 15. The Santa Clara Flood Control
and Water Conservation District have a problem in the Pajaro River relative to brush control and access to the right of way to the bed of the river, in that title records in the county indicate some unclaimed land in the bed of the river, which it is contended may belong to the State. It is not clear that it does belong to the State, however the Flood Control District cannot proceed with this project until it has clearance from all landowners and therefore it is recommended that the Commission authorize approval to indicate that they are granted such rights of access as the State may have.

MR. KIRKWOOD: Move it.

MR. POWERS: O.K.

MR. PEIRCE: The recommendation is approved.

MR. PUTNAM: Next one is the annual ....

MR. KIRKWOOD: This one ...

MR. PEIRCE: This opens it up. Recommendation is approved.

MR. HORTIG: Page 17. The Navy is desirous of constructing an oceanographic tower in the Pacific Ocean near Mission Beach on a right of way easement to be granted by the State. It is recommended that the Executive Officer be authorized to issue for this purpose .......

MR. KIRKWOOD: Approved.

MR. POWERS: O. K.

MR. PEIRCE: The recommendation is approved.

MR. KIRKWOOD: Move it.

MR. POWERS: Yes.

MR. PEIRCE: Recommendation is approved.

MR. HORTIG: Page 27. Pursuant to authorization by the Commission, lease offer was advertised for portion of San Francisco Bay for the purpose of removing oyster shells, which is being conducted currently under a lease which expires next year. One bid was received from the current lessee of the area. However, the bid as offered resulted in a much more favorable royalty to the State than that received under the terms of the existing lease which expires January 14, 1958.

It is recommended that the Commission authorize the execution of lease to Ideal Cement Company, as high bidder, as mineral extractor for twenty years, in accordance with their high bid, upon payment of advance of $4,730 and filing of performance bond.

MR. KIRKWOOD: O.K.

MR. POWERS: Yes.

MR. PEIRCE: The recommendation is approved.

MRS. STAHL: 46, I think, is next.

MR. HORTIG: Page 46 — and then, gentlemen, if you will refer to the rear of your supplemental calendar, you have an unpaged calendar item "Supplemental", headed "1957 Legislation - W. O. 21.5", at the very rear, about the last
three or four sheets, in other words following page 83. This is a more workable summary for presentation to the Commission of the highlights of the legislative program, rather than involving all the bills under consideration, as the Commission will note. The first seven bills listed, Senate 309 to AB 4078 represent seven of the eight bills on which the Commission indicated sponsorship when the bills were presented. There were drafted at least in part by the staff and seven have left the Governor and have been approved.

Following are the three bills, the principal ones which would affect the administrative cognizance of the Commission.

S. 2107 -- This is on transferring current power over small craft harbors to the Department of Natural Resources.

MR. PUTNAM: As I understand it, Frank, in 2107 there is a transfer of jurisdiction with no appropriation.

MR. HORTIG: There is no direct appropriation in 2107 but small craft harbor revolving fund is appropriated in 2107. The Finance Committee has separate legislation to supply money for the harbor program.

AB 47, Miller, amends, as the Commission well knows, the basic oil and gas leasing authority under Cunningham-Shell; and AB 2423, Coolidge, establishes a new ten million dollar small craft harbor loan fund, to be administered by its specific terms by the State Lands Commission.

MR. PUTNAM: That situation is thoroughly confused
right now.

MR. KIRKWOOD: Mr. Chairman, I'd like to see us take
action to recommend the approval of AB 47. On these other
two items, I don't know that we need formal action. I
don't think any of us are going to weep over losing the
small craft harbors.

MR. PUTNAM: We haven't been able to get any people
to work on the thing.

MR. KIRKWOOD: This third one, I suspect the Governor
is going to have some opinion or advice as to what takes
precedence over what. I would like to see us recommend that
the Governor sign AB 47. I do not know to what extent we
need to go into the details of the bill. As I understand,
that is the feeling of the Board members.

MR. POWERS: I think we might as well. The bill they
have selected is down there. I think it should be signed.

MR. PEIRCE: Mr. Kirkwood moves, Governor Powers seconds
the motion that the State Lands Commission recommend to the
Governor his approval of Assembly Bill 47. So will be the
order.

MR. KIRKWOOD: The A. G. will have an analysis of
that.

MR. SHAVELSON: Of A. B. ?

MR. KIRKWOOD: 47.

MR. SHAVELSON: Well, we didn't quite understand. You
want ....
MR. KIRKWOOD: I am wondering whether it would be helpful to us as a Commission on any of the language there to have -- you gave a very tentative informal opinion that Allen Miller and I and some others had -- as to what was meant by an annual rental and whether a bid factor could be used under the language of AB 47. I would think it might be helpful to show that in both instances it would come under the .... How helpful it would be now, to establish legislative intent ... But I think anything that would help clarify the language and clarify our discussion would be helpful, to have in the Governor's office.

MR. POWERS: Same as the Counsel Bureau's recommendation -- this analysis, same as the Counsel Bureau makes an analysis of every bill. These people are more familiar with this particular subject and make the same type of analysis.

MR. KIRKWOOD: I think here that there was some language that disturbed me, that I hoped we could clarify. As it worked, it was better to let the bill go through without clarification. We understood the language meant certain things and the A. G. gave me a letter indicating he agreed with that meaning. It seemed to me that would strengthen ....

MR. POWERS: These people have been working with it.

MR. KIRKWOOD: It is my understanding as a member of the Commission that the adoption of 47 we will have those areas of discussion and I thought that would be helpful to us if that were transmitted to us.
MR. POWERS: Could we have an extra copy of that?

MR. SHAVELSON: How soon would I have to prepare this?

MR. POWERS: The Governor is leaving on the 20th, so it would have to be right away.

MR. PEIRCE: Couldn't you have it ready within, we will say, a week?

MR. POWERS: What's this, the 14th? He's leaving a week from today, isn't he? So it will have to be pretty soon or it would be useless.

MR. PUTNAM: Now, gentlemen, while we are talking about oil, where do we stand on the present Cunningham-Shell Act? You remember we suspended operations and if this bill is signed by the Governor it won't be effective until next September. I think certain procedures can be started, strictly under the present act, where they will dovetail right into the new act -- I mean, not conflict with it -- and start to resuscitate our corpse -- really a matter of policy.

MR. KIRKWOOD: What is your reaction to that, Jay? Have you explored that at all? For instance, can we start with the hearings that may be required and so on, in advance of the effective date of the act, and still grant a lease that is under the new act?

MR. SHAVELSON: I haven't thought about it. I don't think that any formal proceedings that are specific, of the type specifically set out in the act -- I don't recall the
exact wording of the suspension, but that suspension remains in effect, does it not? Or does it?

MR. PUTNAM: That suspension has expired.

MR. SHAVELSON: It has expired?

MR. PUTNAM: Yes. What I had in mind, as a practical matter, gentlemen, was that we could probably start in with the necessary hearings. It takes time to get that arranged for, you know, and have them held in accordance with the terms of the present act. You are certainly not violating anything. The present act regarding developments remains unchanged. So long as the suspension is no longer in effect, I see no reason ....

MR. POWERS: You do the preliminary work at the present time and when the other act comes in, they become effective.

MR. KIRKWOOD: You are thinking primarily of that 155,000 acres ...

MR. PUTNAM: And those eight or nine parcels which we had ...

MR. HORTIG: That's the same that Mr. Kirkwood is referring to.

MR. PUTNAM: Their acreage limitation hasn't been changed, has it, except as to minimum?

MR. HORTIG: No.

MR. PUTNAM: And we didn't have any minimum, so I just want to discuss as a matter of policy whether or not we should go ahead now and get some of this thing going, so
that when the new act becomes effective, if the Governor signs it, we can be that much farther ahead. If the Governor doesn't sign the new act, we will be that much farther ahead.

MR. KIRKWOOD: I'd hesitate to take action today that would officially start anything, other than ask the staff to be prepared at the next meeting to make recommendations as to areas where they can start moving, but I don't think we are sufficiently advised today to formally start.

MR. HORTIG: Mr. Kirkwood, might ask - - would it be advisable and of assistance if, concurrent with that review report at the next meeting, we also request an Attorney General's opinion for the legal precepts?

MR. KIRKWOOD: That was what I had in mind. I thought with something of that nature we might get off on the wrong foot.

PAUL LOWER: Mr. Chairman. I am Paul Lower of the Superior Oil Company, as you know, and I think I can simplify the discussion and duties of the staff here and perhaps the Commission, by suggesting that they don't need to resuscitate insofar as the Superior Oil Company is concerned on those three parcels in Ventura County. We drilled a dry hole within 150 feet of the State lands, which so far as we are concerned just proved the whole 16,000 acres.

MR. PUTNAM: It means we have to review the whole
situation. Any other items?

MR. HORTIG: If the Commission will refer to the next item, three pages up from the bottom, supplemental calendar item on proposed purchase...

MR. SMITH: It is recommended that the Executive Officer certify to the Governor that it is to the advantage of the State to exchange with the United States Government 160 acres of school land for 160 acres of Federal land in San Diego County of equal acreage and value; that the Executive Officer be authorized to execute for the State Lands Commission a certificate as provided in Section 6444 of the Code; and that the State, upon acquisition from the Federal Government, sell the said land to the applicant at the appraised cash value of $1,200, without advertising, subject to all statutory reservations. She has alleged a possessory interest in this land for a number of years as a homestead and she is paying taxes on the land, has a small house or shack on the land, and is attempting to get title through this procedure. The appraised value is $7.50 per acre, or $1,200.

MR. KIRKWOOD: What was the reason for the certification to the Governor?

MR. SMITH: AS distinct from indemnity selection.

MR. PEIRCE: Any further questions.

MR. KIRKWOOD: I'll move.

MR. POWERS: Sure.
MR. PEIRCE: The recommendation is approved.

MR. HORTIG: The next to the last page in your supplement, unnumbered -- The Commission previously directed the staff review of possible basis for retention of a board of consultants to assist the Commission by recommendations on oil and gas leasing procedures to be effected. Retention of such a board has been determined to be operable and proper under the operating budget of the Commission. Review has been made of the firms in the consulting engineering, operating and geological phases of the oil and gas leasing and it is recommended that the Executive Officer be authorized to determine the availability of consultants on oil and gas leasing, with particular emphasis on tide and submerged land operations and to report such consultants to the State Lands Commission to constitute a board of consultants.

MR. PEIRCE: Any discussion?

MR. KIRKWOOD: I think this is appropriate. I do think this is something -- when we talk in terms of availability, we mean an immediate availability and I don't think we want to start out on leases before they are available.

MR. PUTNAM: We will need them in September.

MR. KIRKWOOD: I think the sooner, the better. We may find ourselves trapped here. When can we start the ball rolling? I think we want to get the ball rolling. I would think this is a satisfactory way of approaching it.
MR. POWERS: Yes.

MR. PEIRCE: The recommendation is approved. Any further business?

MR. HORTIG: If you gentlemen will refer to page 83 of the supplement, this is a routine annual requirement, coming into the new fiscal year, for Commission authorization to enter into a contract for reproduction services in the amount of $5,000; the delegation of authority to the Executive Officer being limited to $2,000, this requires Commission approval.

MR. PEIRCE: This is the same as a year ago.

MR. PUTNAM: No, it's heavier.

MR. KIRKWOOD: All right.

MR. PEIRCE: The recommendation is approved. Any further business? The meeting is adjourned.

MEETING ADJOURNED AT 12:10 P.M.

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