TRANSCRIPT OF
MEETING
of
STATE LANDS COMMISSION
LOS ANGELES, CALIFORNIA
AUGUST 25, 1960 - 9:00 A. M.

PARTICIPANTS:

THE COMMISSION:

Messrs. Alan Cranston, Controller, Chairman
Glenn M. Anderson, Lieutenant Governor
John E. Carr, Director of Finance

F. J. Hortig, Executive Officer
Fred Kreft, Assistant Executive Officer

OFFICE OF THE ATTORNEY GENERAL:

Mr. Jay L. Shavelson, Deputy Attorney General

APPEARANCES:

Mr. Harold Lingle, Deputy City Attorney, Long Beach

Reporter:

Louise H. Lillico
Division of Administrative Procedure
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(IN ACCORDANCE WITH CALENDAR SUMMARY)

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Confirmation of next meeting date —— 30
MR. CRANSTON: The meeting will please come to order. First item on the agenda is confirmation of the minutes of June 23, 1960.

GOV. ANDERSON: I move their approval.

MR. CARR: Second.

MR. CRANSTON: Moved and seconded, so ordered that they are approved. We then come to Classification 2 -- permits, easements, leases, and rights-of-way issued pursuant to statutes and established rental policies of the Commission. First is Cal-West Aviation, Inc.

MR. HORTIG: Mr. Chairman, while this is a proposed operation completely as identified on the calendar summary, pursuant to statutes and established rental policies of the Commission, in view of the fact that it involves proposed dredging on tide and submerged lands of the State of California in Steinberger Slough, San Mateo County -- which borders on the nature of material removal which the Commission considered at length at the last Commission meeting -- I did want to amplify in brief detail with respect to the nature of this operation.

The proposal is to develop the recently acquired San Carlos Airport property. The majority of the development proposed will be on privately owned uplands. As an adjunct to this development, it is proposed to establish a marina and boat landing facilities and even a ferry slip, which will be primarily located on privately owned uplands. However,
there would be approximately 9.32 acres of State tide and submerged lands involved, but the material which would be removed would be removed primarily and almost solely for the purpose of improving navigation. Having removed it, there must be a place to put it; and this material, which would be low grade fill material, would be spread for the benefit of the project. This is not a removal of excellent construction material from San Francisco Bay per se, but the operations are for the improvement of navigation in Steinberger Slough as an adjunct to the development of the adjoining privately owned land. The entire project has the approval of the San Mateo Planning Commission and I did want to make the distinction as to the difference between this operation and as to those considered at the last meeting.

MR. CRANSTON: Item (b) - Pacific Gas and Electric Company. If there is no comment on it -- Item (c), Pacific Gas and Electric Company; item (d), Van Horn, James Morse.

That concludes the ....

GOV. ANDERSON: I move their approval.

MR. CARR: Second.

MR. CRANSTON: If there is no objection, it will be unanimously so ordered and "2" is approved.

Item Classification 3 -- City of Long Beach Projects: Item (a) is Pier A - Diversion Dike, Remedial Work, second phase.

MR. HORTIG: As the Commissioners will recall, from
the terminology "second phase" it is now proposed that based on subproject estimates there be approved a possible total expenditure of $371,000, with $74,200 of that amount estimated as possible subsidence costs -- the preliminary engineering work and completion of these estimates having been completed under the first phase previously approved by the Commission.

MR. CRANSTON: Item (b) is Pier A - Berths 1 and 2, Transit Shed Roof and Wall Coatings, second phase.

MR. HORTIG: Procedurally this is an identical situation with the previous one. The geographical location and the work to be performed are the only differences.

MR. CRANSTON: Item (c) - Back Areas, Piers A to D, Miscellaneous Work.

MR. HORTIG: This is, again, a continuation of a general project heretofore approved by the State Lands Commission, with the standard limitations on all of these items being presented here this morning with respect to the City of Long Beach projects that the amount of subsidence allowance to be permitted ultimately in fact will be determined by a final engineering review and audit after the work is completed and the exact nature of all the expenditures can be clearly identified.

MR. CRANSTON: Item (d) is Town Lot - Property Purchase, Area 4, Increase in Parcel 39, etcetera.

MR. HORTIG: This, again, would be included under the remarks I just made for the preceding item.
MR. CRANSTON: Motion is in order to approve the item.

GOV. ANDERSON: I'll move approval.

MR. CARR: Second.

MR. CRANSTON: The item is unanimously approved.

GOV. ANDERSON: Before we leave Long Beach, I'd like to have Mr. Carr briefly review for the record the letter received from the Navy. I thought this would be a good time to do it, before the Long Beach people leave.

MR. HORTIG: If I may state, unless you have spoken to Mr. Carr or the Chairman with respect to the meeting this week, if the gentlemen are not informed of it, I had asked the gentlemen for a brief period after this meeting to review that meeting with them.

MR. CRANSTON: Item 4 -- Sales of vacant State school lands.

MR. HORTIG: Mr. Chairman, before considering the items which appear on pages 11 through 18 of the calendar, I wish to report to the Commission that all of the proposed sales of vacant State school lands here reported are recommended sales in final processing of previously pending applications to purchase.

As the Commissioners will recall, at the May meeting a moratorium was adopted on further sales of State school lands pending determination of a future policy for the disposition of such lands. From the moratorium there were excepted
those pending valid applications which were pending on the
date of the moratorium.

The calendar items being presented here this morning
are the first of the series of about to be completed applica-
tions which were pending. The proposed sales have all been
screened by twenty-six State agencies who have land acquisi-
tion programs. None of these agencies indicated any affirma-
tive interest in the specific parcels being considered this
morning. The Division of Highways did report back that they
were definitely interested in the practice of being able to
screen these sales and definitely commended the Commission for
this practice.

This introductory statement this morning will be
summarized and be included as part of future calendar items
and, therefore, will not be repeated in the future; but
starting this morning and until directed further by the Com-
mission, all land sales items which are being brought to the
Commission will have previously been screened and determined
to not be of any interest on the part of any other State agency
having a land acquisition program.

MR. CRANSTON: Is the present status of the mora-
torium that applications go through that process and then they
will continue to come before the Commission?

MR. HORTIG: To the point of extinction of the
applications that were pending at the date of the moratorium.

MR. CRANSTON: Where do we stand on new ones?
MR. HORTIG: No new applications have been accepted since the date of the moratorium.

MR. CARR: Mr. Chairman, may I ask how many remain to be processed?

MR. HORTIG: In round numbers, Mr. Carr, between ninety and one hundred.

MR. CRANSTON: What is there to be done in terms of under what terms we will lift the moratorium?

MR. HORTIG: A staff report for consideration by the Commission after completion of the basic mechanics for classification and indexing -- an element of which is the mechanical situation of the possibility of setting up electronic data processing equipment for handling the voluminous records, which is under active study by the Division of Cost Control of the Department of Finance.

MR. CRANSTON: When will the basic study come to us -- not the complete study, but the study on processing?

MR. HORTIG: We have heretofore estimated for the general public, and this is still valid and not definite, I would presume six months.

MR. CRANSTON: Would this moratorium continue six months, then?

MR. HORTIG: Yes sir.

MR. CRANSTON: Going now, then, to the sales before us for approval at this time: Item (a) is John E. Bennett -- if there is no comment we will go on down the list -- Item (b) -- Joseph T. Kaderabek. Item (c) Ben and Richard Mednick;
Item (d) - Jacob Meltzer; Item (e) - Theodore G. Mobley; Item (f) - Pasadena Christian School, Incorporated; Item (g) - John J. Pytel; Item (h) - Karl F. Weikel. That concludes the items before us under Item Classification 4 and a motion is in order.

MR. CARR: Move the approval.

GOV. ANDERSON: Second.

MR. CRANSTON: It has been moved and seconded and unanimously so ordered that they be approved.

Now we come to other miscellaneous items: Number 5 -- Allowance of request of Martin Ellerman to withdraw purchase application covering 640 acres underlying the Salton Sea in Imperial County and approval of refund of deposits; rescission of Minute Item 18 of 12/17/59; approval of sale of subject land to Imperial Irrigation District at market value.

MR. HORTIG: Mr. Chairman, this has been the most difficult processing for the sale of a piece of vacant school land which the State Lands Commission ever sold. As you will recall, on December 17, 1959 there was authorized the sale of 640 acres of land, vacant State school land inundated as a result of the flood on Salton Sea. Questions as to the higher possible public use for these lands, rather than conveyance into private ownership, were investigated at the request of the Director of Finance; also the question of whether there might be any liability on the State or creation of liability on other agencies by reason of this sale in the event that
private lands in the future were found to have had the water
level of them raised or lowered, were reviewed by the Office
of the Attorney General. A series of protective restrictions
were recommended by the Office of the Attorney General to be
included in the patent to be issued in completing the sale
authorized by the Commission.

After reviewing the restrictions which would be
included in the patent, the applicant requested that he be
permitted to withdraw his application in view of the fact that
he had not understood that there would be all of these condi-
tions to a sale, which assertion is completely factual; and,
therefore, it is recommended that the Commission authorize the
Executive Officer to permit the withdrawal of the application,
retain the title to the lands in the State, refund the deposits
heretofore made by the applicant; and, additionally, in conson-
ance with another approval by the Commission, to authorize sale
of these lands under the Salton Sea to the Imperial Irrigation
District in addition to the lands that would be made available
for purchase by the Imperial Irrigation District at market
value, if the Commission so approves and if an offer is received,
in fact, by the Commission from the Imperial Irrigation District.

MR. CARR: Do you want to take these up separately?

I move the approval of all four.

MR. CRANSTON: Which four?

MR. CARR: These four steps -- steps 1 and 2 and
steps 1 and 2 in the second recommendation.
GOV. ANDERSON: Yes.

MR. CRANSTON: It has been moved and seconded to approve the steps in the recommendation ....

MR. CARR: Move the recommendation.

GOV. ANDERSON: I'll second it.

MR. CRANSTON: Unanimously so ordered.

Item 6 is selection on behalf of the State of 640 acres of vacant Federal lands in San Bernardino County.

George McCarthy, applicant, does not desire to proceed with the acquisition of these lands.

MR. HORTIG: And in terms of expedition, it would be recommended, Mr. Chairman, that Item 7 also be considered concurrently, which is of a similar nature, for cancellation of an application pursuant to the request of the applicant and the selection of vacant Federal lands in Mendocino County -- these lands to go on the vacant land list of the Lands Commission, to be disposed of in accordance with the future determined policy of the Commission.

MR. CARR: I move these.

MR. CRANSTON: Items 6 and 7 ?

GOV. ANDERSON: Second.

MR. CARR: I'd like to ask one question of Mr. Hortig. Would this go to the credit of the 200,000 more or less odd acres that the Federal government owes the State of California?

MR. HORTIG: Yes sir.

MR. CRANSTON: It has been moved and seconded and
unanimously approved on Items 6 and 7.

Item 8 is withdrawal from public sale of 80 acres of vacant school lands, Yolo County, on behalf of Yolo County Flood Control and Water Conservation District; rejection of purchase application of Robert G. West.

MR. HORTIG: The State Lands Division had under consideration and processing an application to purchase a specified forty acres of vacant State school land in Yolo County, when there was received from the attorneys on behalf of Yolo County Flood Control and Water Conservation District request that these lands be withheld from public sale pending the determination of feasibility of a water development project in the Cache Creek watershed.

Therefore, again in conformance with the Commission policy to have vacant State school lands screened for their greater public value, it is recommended that the application to purchase from Mr. Robert G. West be cancelled; that Mr. West's deposits be returned; and that the specified lands be earmarked as being held for possible disposition to the Yolo County Flood Control and Water Conservation District as soon as the study program for the area with respect to water conservation and water development is completed.

GOV. ANDERSON: I'll move it.

MR. CARR: Second.

MR. CRANSTON: Moved and seconded, unanimously approved.
MR. CRANSTON (continuing) Item 9 is authorization for publication of notice of intent to consider offering leases for extraction of oil and gas from approximately 2,560 acres T & S lands, Ventura County.

MR. HORTIG: Action on the item which appears on calendar page 27 was withheld from Commission consideration at the May meeting at the request of the Controller, to permit staff conference with officials of the City of Oxnard, who have annexed and propose annexing areas adjoining the areas herein proposed for lease. Such conferences were held. The procedure required by statute for potential lease offer is understood by the Oxnard city and Ventura county officials and they have indicated that compliance with such procedure would meet all their requirements locally.

Therefore, it is recommended that the Commission authorize the Executive Officer to proceed with the publication of a notice as required by the statutes, which would result in an opportunity for the City of Oxnard and the County of Ventura to request that a public hearing be held with respect to the bases under which the Commission might consider to offer the specified tidelands for lease in Ventura County and which are being recommended for consideration for lease because there is drainage, or threat of drainage, of oil and gas from beneath these unleased State tide and submerged lands.

GOV. ANDERSON: I move it.

MR. CARR: Second.
MR. CRANSTON: Item 9 approval has been moved and seconded and is unanimously adopted.

Item 10 — Authorization to issue service agreements to Keplinger and Wanenmacher and to Dr. Herman H. Kaveler, at cost not to exceed $4,000 each for consulting services during 1960-61 fiscal year in connection with oil and gas leasing.

MR. HORTIG: The item is presented to the Commission for approval because the respective contracts exceed the $2,000 per contract ceiling which the Executive Officer is authorized to undertake without further authorization by the Commission.

As recited, the particular group of consultants for potential consulting service to the Commission have been under retainer by the Commission for several years. They were used in 1958. They were not used by the Commission during 1959, although we had a contract under which their services would be available to the Commission if so desired.

In anticipation of the possibility that the Commission might wish consulting services and to have them readily available without the necessity of having to undertake the procedural requirements which require approval by the Department of Finance and the State Personnel Board for employment of consultants and so forth; in order to, in effect, have consultants on call for the Commission but without calling them, these service contracts are presented for approval.

GOV. ANDERSON: These men —— we have never used them
as far as this present Commission were concerned?

MR. HORTIG: No sir.

GOV. ANDERSON: Do they ever work with the Division themselves?

MR. HORTIG: No sir, they never have. They have been used only by the Commission as consultants to the State Lands Commission.

GOV. ANDERSON: How long have these fellows been on a retainer by the State?

MR. HORTIG: Since 1957. "Retainer" is possibly a misnomer. They have signed service contracts to be available. There is no service fee involved.

GOV. ANDERSON: Now, for the year '59 their services were not used but they each received $4,000?

MR. HORTIG: No sir. They received nothing.

GOV. ANDERSON: In other words, this is a maximum figure. Unless you use them, they receive no pay?

MR. HORTIG: That's right.

GOV. ANDERSON: And the last time you used them was 1958?

MR. HORTIG: Yes sir.

MR. CRANSTON: All of this is set up for the possibility we wish to use them?

MR. HORTIG: To have them on call if the Commission wishes to call them.

GOV. ANDERSON: Who are these men? Are they pretty
MR. HORTIG: They are of national and international repute. They were selected by the prior Commission after a screening of available out-of-state consultants uncommitted specifically to California petroleum industry and they have achieved, as I say, both national and international reputation— not only in the engineering phases but more particularly in the business administration and economic phases of governmental oil and gas leasing, having served as consultants to other states and other national governments.

GOV. ANDERSON: These are all out-of-state men?

MR. HORTIG: Yes, all from Tulsa, Oklahoma.

GOV. ANDERSON: All three of them?

MR. HORTIG: Yes sir.

GOV. ANDERSON: Are they in private industry?

MR. HORTIG: No sir, they are independent consultants.

MR. CRANSTON: This action would have to preclude our turning to others if we wish to do so?

MR. HORTIG: No sir. It would merely mean you would at that time have the staff undertake a similar contract with other consultants.

MR. CRANSTON: It seems to me to be the thing to do at this time. Is there a motion at this time to that effect?

GOV. ANDERSON: I'll move it ....

MR. CARR: Second.

GOV. ANDERSON: ... unless there is any question
about it. This is the first time I have heard about it.

MR. CRANSTON: Approval of Item 10 is moved and
seconded, unanimously adopted.

Item 11 -- Authorization to execute compensatory
royalty agreement with Franco Western Oil Company and Arthur
A. Cameron, d.b.a. Cameron Oil Company, for State’s interest
in lands in the bed of the Sacramento River, Sutter and Colusa
counties.

MR. HORTIG: The State Lands Commission has in
existence numerous compensatory royalty agreements which are
authorized under Section 6815 of the Public Resources Code,
but this is actually the first one that has been brought for
consideration to the present Commission; and the purpose of a
compensatory royalty agreement, rather than offering State
lands for lease, stems from the fact that with a poorly
distributed, geographically poorly distributed, tortuous
channel of a river or abandoned river as we have involved in
the matter under consideration here, nominally good leases
cannot be achieved and good lease bids cannot be achieved.

Additionally, there is at least an equitable burden
upon the State Lands Commission to try to restrain operations
so that they are conducted properly in accordance with estab-
lished oil field practice, and the placing of numerous wells on
a rather narrow strip of land could create offset drilling
operations and could require simply by contract a number of
wells that are not economically justified and not justified in
properly developing the oil and gas reservoir.

Therefore, the Legislature has provided for such a situation the option to the Commission that when wells appear to be draining from lands owned by the State, the Commission may enter into agreements with the owners of such private lands for the payment of compensation to the State for such drainage.

Cameron Oil Company has completed and drilled a producible well and it will drain gas -- as soon as it is connected to a delivery line, it will drain gas from the adjoining State lands under the Sacramento River. It is therefore, recommended that a compensatory oil agreement, as offered by Cameron Oil Company and Franco Western Oil Company, which would pay the State a royalty on all gas calculated as being drained from the State lands, be issued -- which would provide to the State 16-2/3 percent of the value of all gas drained from State lands.

GOV. ANDERSON: Whereabouts is this?
MR. HORTIG: In southern Colusa County. It is in the so-called Grimes area on the upper Sacramento River.

GOV. ANDERSON: No better area direction than that?
MR. HORTIG: Yes, by map. (To Mr. Kreft) Would you take that to the governor, please? (Mr. Kreft took map to Governor and explained location)

GOV. ANDERSON: Is this the first agreement we have drawn up?
MR. HORTIG: That this Commission has considered. We have many in existence as a matter of contract issued previously; notably Whiskey Slough, the tortuous channel of the Mokelumne River, the Thornton Gas Field, Kirby Hill are all under compensatory royalty agreements.

MR. CARR: Mr. Chairman, I’d like to ask Mr. Hortig a couple questions. My understanding is in this particular case that to lease the State lands would raise a definite problem on drillsites and that sort of thing, is that correct?

MR. HORTIG: That is correct.

MR. CARR: And in arriving at this royalty figure of 16-2/3 percent, what are the economics of the situation?

MR. HORTIG: The fact that all the adjoining upland lessees, who actually have large acreages compared to the State Lands that would be involved and even possibly more favorably situated geologically, but as a minimum more favorably situated geographically and therefore drillsites are no problem on such lands, none of these lessees are receiving more than 16-2/3 percent royalty being offered under this compensatory royalty agreement.

MR. CARR: What is determining the equities here as to how much gas is going to be extracted?

MR. HORTIG: This is done by simple geometry. After having evaluated the probable drainage area of a well, which in this case has been determined to be 320 acres, a 320-acre circle is circumscribed about each producing well.
Incidentally, and particularly for Governor Anderson's benefit, such a compensatory royalty agreement would prohibit the drilling of any well into State lands. The gas must be taken from wells drilled on privately owned or lands adjoining State lands.

After circumscribing the 320-acre circle about a well drilled on privately owned lands, if any portion of that circle intersects the limits of the Sacramento River, then the State would receive royalty on that portion of the total gas produced from that well that the portion of the circle that circumvents the Sacramento River bears to the total production.

MR. CARR: Do I understand this is the first producing well in this area?

MR. HORTIG: That is correct.

MR. CARR: And what is the next nearest producing well?

MR. HORTIG: Mr. Kreft can show you on the map.

(Mr. Kreft indicates location on map)

MR. CARR: In this particular case, this area here is intersected by both circles. How do you determine that?

MR. HORTIG: You circumscribe that.

MR. CARR: Suppose these were two different lessees?

MR. HORTIG: You still prorate between the two, Mr. Carr.

MR. CARR: What is the anticipated pattern in here?
What will be the well spacing in there? There's only two wells in there.

MR. HORTIG: Probably 320 acres, Mr. Carr; one well to 320 acres.

MR. KREFT: 660 for gas.

MR. HORTIG: I might point out that in lieu of any such a compensatory royalty agreement, while the Commission might consider -- if there were more favorable acreage for lease offer than there here is -- that in the interim, having not approved a compensatory royalty agreement, these operators would be completely within their legal rights to produce all the gas and drain the State's land without compensation to the State, and the State would lose ...

MR. CARR: What happens if, in the development of this field, it would appear to these geologists that they would like to bottom a well under the river? Is there a possibility of that?

MR. HORTIG: Then they would have to demonstrate to the Commission that a commercially valuable volume of oil and gas exists within the State land and ask that the area be put up for lease on competitive bid.

GOV. ANDERSON: I move it.

MR. CARR: Second.

MR. CRANSTON: Approval is moved, seconded and unanimously adopted.

Item 12 -- Authorization to recommend to State
Board of Control a claim on behalf of City of Sausalito in the amount of $837.68, representing rentals collected by State and now properly payable to the City of Sausalito.

MR. HORTIG: In summary, Mr. Chairman, the Commission had leased tidelands fronting on the City of Sausalito. Subsequently, and while the lease was still in full force and effect, the Legislature granted the tidelands to the City of Sausalito. It was assumed, in view of the fact that the language of the granting statute did not specifically transfer the existing lease to the City of Sausalito, that this contract would run until its termination date, and the State Lands Commission continued to collect the rental.

Finally, all attorneys involved, including the Office of the Attorney General, have come to the conclusion that the City of Sausalito is entitled to the payments of rental from the date of the legislative grant. These have been heretofore collected by State Lands Commission and put in the State Lands Act Fund and distributed in accordance with the statute. Therefore, there are no funds by which the Lands Commission could make a refund directly to the City of Sausalito and it is, therefore, recommended that the Commission authorize the Executive Officer to report approval to the State Board of Control on behalf of the State Lands Commission, in accordance with the legal findings of the Office of the Attorney General, if the City of Sausalito files such a claim with the State Board of Control.
MR. CARR: Moved.

GOV. ANDERSON: Second.

MR. CRANSTON: Moved and seconded and unanimously adopted.

Item 13 -- Approval of Maps: (a) Survey of the Mean High Tide Line Along the Shore of Santa Barbara Channel, Santa Barbara County, California dated February, March and April 1958; (b) Survey of the Mean High Tide Line Along the Shore of Monterey Bay, Vicinity of Santa Cruz, Santa Cruz County, dated April to May 1959; (c) Map of the Grant to the City of Chula Vista, Vicinity of San Diego Bay, San Diego County dated October 1959.

MR. HORTIG: The first two items, Mr. Chairman -- As the Commission will recall, the survey activities of the State Lands Division are being concentrated on accomplishing record surveys to locate definitively the boundary of State lands, particularly in those areas where artificial conditions -- construction, etcetera, as at Santa Cruz, where the U. S. Army Engineers propose to put a series of jetties for shore protection -- to be sure that the boundary of State lands, which will be obscured by artificial changes, will be of record and recorded in the county in which the land is located.

This is the basic purpose for the maps (a) and (b) relating to Santa Barbara Channel and Monterey Bay, Santa Cruz.

Item (c) represents approval of a completed series
of maps which were required by the Legislature to be completed by the State Lands Commission to define a grant to the City of Chula Vista. This last series of maps were undertaken under a service agreement, under which the City of Chula Vista reimburses the Commission for its actual cost in making this survey.

GOV. ANDERSON: I'll move it.

MR. CARR: Second.

MR. CRANSTON: Moved and seconded, unanimously adopted.

Item 14 — Authorization to execute a service agreement with the San Mateo County Harbor District, County of San Mateo, providing for surveying services to be rendered the Harbor District, pursuant to Chapter 68/60, at a cost not to exceed $12,000.

MR. HORTIG: As just outlined and completed for the City of Chula Vista, with the San Mateo Harbor District we are at the beginning of complying with the statutory condition that the Lands Commission survey the boundary line of the tide and submerged lands granted to the County of San Mateo.

GOV. ANDERSON: I'll move it.

MR. CARR: Second.

MR. CRANSTON: Moved and seconded, unanimously adopted.

Item 15 — Authority for question relating to the validity of the grant to the City of Coronado, Chapter 1839/53,
to be reported to appropriate Legislative Interim Committee
for study and action, if any, that such legislative body deems
advisable.

MR. HORTIG: Mr. Chairman, the Legislature, as
appears on page 37 of your calendar, has made various legis-
slative grants of tide and submerged lands to the City of
Coronado. One of those grants, specifically Chapter 1839,
Statutes of 1953, fails to express consideration for the
grant. The State Lands Commission has previously asked the
informal opinion of the Office of the Attorney General as to
the validity or constitutionality of this statute and you
gentlemen have a copy of that opinion attached to your calendar.

The Office of the Attorney General has indicated
that there is an element of doubt and it is possible the
grant may be defective legally.

The Legislature has expressed its intention to have
the involved lands released from the tidelands trust. The
question of constitutionality is not ordinarily within the
purview of the State Lands Commission. It is the Commission's
function, wherever possible, to effectuate legislative intent.

Therefore, it is recommended that the question of
the validity of the grant to the City of Coronado, Chapter
1839, Statutes of 1953, be reported to the appropriate legis-
slative interim committee for such study and action, if any,
that such legislative body deems advisable.

Before action by the Commission, I have this morning
received the following telegram relative to this item, which
I would wish to read into the record:

(Addressed to the State Lands Commission)

"As a California taxpayer resident of California
since 1940 and property owner taxpayer of
Coronado since 1946 I demand that the Lands
Commission report the matter of the grant to
the City of Coronado to the appropriate legis-
lative interim committee. I regard this grant
of tide and submerged land to the City of
Coronado and the subsequent gift of this land
to a private and exclusive organization an
unjustifiable precedent establishing violation
of the statutes of the State of California
further. Again request that the use of other
tide and submerged land for 14 story apartment
buildings as opposed to the uses prescribed by
the statutes be denied as I have many times
previously requested.

Mrs. John G. Thompson"

GOV. ANDERSON: What is the appropriate legislative
committee?

MR. HORTIG: On this I would call upon you, Governor,
for expert advice as President of the Senate for suggestions
as to the selection of the appropriate committee.

GOV. ANDERSON: You haven't discussed it with
Senate Rules?

MR. HORTIG: No sir. I would have expected to
follow through with Senate Rules after further conference
with you and other members of the Commission.

MR. CRANSTON: It seems to me we should at least
consider another course of action, because, as it is stated
here, "It is the Commission's function .... to effectuate
legislative intent." It is also our rule to abide by the Constitution and also get legal opinion from the Attorney General's office; and the Attorney General's report here first calls attention to the numerous complaints we and they have received, of which this is only one of many.

I think, to go further, they raise an element of doubt on this. One explicit statement on page 3:

"In our opinion the 1953 'release' statute probably is violative of Article IV, Section 31 of the Constitution of the State of California, prohibiting the gift of public property."

It states on page 4:

"As concerns the agreement between the City and the Coronado Woman's Club, in our opinion it constitutes a gift of a 40-year leasehold and, as such, also run afoul of Article IV of Section 31 of the Constitution, there being no public benefit sufficient to constitute the required consideration."

Various relevant cases have been cited. One is, on page 5, in case City & County of San Francisco v. Ross, "the Supreme Court found no public purpose was present where insufficient controls were retained by a municipality in the acquisition and leasing of property for a parking lot."

It goes on to state:

"Even assuming that the operation of a woman's club is of itself not inconsistent with the trust for navigation, commerce and fisheries, nonetheless the lease here fails to embrace the principles enunciated in the above-cited decisions. The lessee is unfettered by controls sufficient to enable the city to see to it that the property is being devoted to a public use."
In conclusion, the Attorney General's report states:

"We believe it is a question of policy, to be decided by the Commission, as to whether the State should institute a suit at this time, for the dual purpose of ascertaining the effect of the 1953 'release' statute and challenging the validity of the lease."

It goes on to say that:

"... after being advised hereof, the City and the Woman's Club will see fit to re-negotiate the said lease so that its provisions will satisfy the criteria laid down..."

and cites various cases.

The concluding paragraph:

"We have not attempted to recommend a definite course of action. In view of the public discussion which has developed, it is suggested that copies of this memorandum be made available to the officials of the City of Coronado and to interested citizens so that they may take such steps as they desire."

Has that been done? Have copies of this opinion gone forward?

MR. HORTIG: I am specifically aware that the copy has gone to the City Attorney of the City of Coronado. The problem has also been discussed at length, Mr. Chairman, as you know, by the staff with Mrs. John G. Thompson in all its facets.

GOV. ANDERSON: Who is Mrs. John G. Thompson?

MR. HORTIG: A California taxpayer and property owner in Coronado since 1940.
GOV. ANDERSON: I mean, has she been involved in this particular case?

MR. HORTIG: She has objected continuously and specifically with respect to this particular Coronado question, which primarily, again, for the staff gave the problem that in the first instance there are many legal problems involved which, again, are not strictly within the purview and scope of the normal type of activity of the State Lands Commission; and when the Attorney General further quoted in the opinion or stated in the opinion, from which Mr. Cranston just quoted, that it might be decided as a question of policy by the State Lands Commission as to whether to sue to find out what these statutes meant, it occurred to the staff that possibly the Commission might wish to re-refer this to the legislative body that drafted this statute, complete with questions, for further consideration — rather than to initiate a suit questioning what Coronado had done.

MR. CRANSTON: Could we hear from the Attorney General on this?

MR. SHAPELS: In this case, although I think the Chairman is correct that it is definitely the opinion here that the grant is defective in some way, it isn't too clear exactly what the Legislature's intent would be in light of this defectiveness. We have something here that is quite analogous to what happened in Long Beach in 1951, when the Legislature terminated the trust as to part of the tideland
revenues and the State Supreme Court held that that created a resulting trust in the State and it is possible that would be the result here. It is a very analogous situation.

On the other hand, it may be desirable to see whether the Legislature -- in light of the fact that it can't release these things to the city without consideration, whether it would prefer demanding a consideration or whether it really wants these lands to revert to the State of California. It may be that the Legislature would prefer to make a new grant for a consideration and it may be that that might be acceptable to the City of Coronado; and, therefore, the intent of the Legislature and of the parties could be carried out in that way and that could conceivably be a better policy than immediately going in, for example, and ascertain a resulting trust in the State of California.

Our office also feels that we want to carry out the legislative intent if it is possible and give them a chance to let us know what that intent is.

MR. CRANSTON: What would be the status of the lease during this time if it would go to a committee?

MR. SHAVELSON: Well, if this grant is invalid, the lease itself is invalid. I think quite clearly if these lands are still subject to a tidelands trust I don't think this is a proper tidelands trust purpose.

MR. CRANSTON: Until it is determined by further legislative action, this is simply a situation with a cloud over it?
MR. SHAVELSON: Yes sir.

MR. CARR: Are there any improvements on that? What are they?

MR. HORTIG: Yes sir -- a woman's club using several yacht and boathouse facilities.

GOV. ANDERSON: Have they been notified of the cloud?

MR. HORTIG: Yes sir -- Coronado?

GOV. ANDERSON: I mean the woman's club itself?

MR. HORTIG: Well, this was a matter of extensive, acrimonious, and very vocal debate reported in the Coronado press as between the proponents and the opponents, as between the City Commission in Coronado, etcetera.

GOV. ANDERSON: So they are on record. There wouldn't be any further improvements until this is settled?

MR. HORTIG: Well, everybody knows there is a problem and all we are recommending is that the appropriate authors rectify the problem.

MR. CARR: In the meantime, what action has been taken down there? Do they recognize the problem that they are not to construct further improvements or are they going ahead?

MR. HORTIG: During the initial debate they constructed the woman's clubhouse, which is in. Yes.

GOV. ANDERSON: I move the recommendation of the staff.
MR. CARR: Second.

MR. CRANSTON: Approval of the staff recommendation has been moved and seconded, unanimously adopted.

Item 16 -- Confirmation of transactions consummated by the Executive Officer pursuant to authority confirmed by the Commission at its meeting on October 5, 1959.

MR. HORTIG: As reported on pages 38 through 40, there are presented for Commission confirmation actions completed by the Executive Officer under delgations of authority, which consisted of approval of the assignment of two prospecting permits, the assignment of an arksite lease on Corte Madera Creek in Marin County, the extension of a geological survey permit, and the issuance of a grazing lease for which the total rental at the appraised value is $12.30 per year.

MR. CARR: I move it.

GOV. ANDERSON: Second.

MR. CRANSTON: Approval is moved, seconded, and unanimously adopted.

Item 17 -- Report on status of major litigation -- informative only, no Commission action required.

MR. HORTIG: And no special staff comments, Mr. Chairman.

MR. CRANSTON: Item 18 is confirmation of date, time and place of next Commission meeting -- Thursday, September 29, at nine a.m. in Sacramento. In connection with
this, and not in reference to this meeting but in reference
to future meetings, several people in Southern California
have asked us about the meeting time in Sacramento of nine
a.m. -- which we will have for the next calendar, because
it is already set; but apparently the people who are attend-
ing the meetings of the Lands Commission at Sacramento are
from the southern area and apparently a nine a.m. meeting
is so early they must come up that night.

I'd like to ask if a ten a.m. meeting would be
more convenient. If it is, we could start meeting at ten
a.m. I see heads shaking in a down and up way, so a motion
would be in order to set our time for ten a.m. after the
coming meeting, for future meetings in Sacramento.

GOV. ANDERSON: I so move.

MR. CARR: I would like to ask would it be also
more convenient if the meeting here began at ten a.m. for
the benefit of those who might be coming from Sacramento?

GOV. ANDERSON: I don't think they have the same
problem. You have most of the people represented in the
south.

MR. CARR: The people from Long Beach still have
to get up in the morning.

MR. CRANSTON: Would a ten a.m. meeting also in
Los Angeles be more desirable from your points of view?

MR. LINGLE: Our only trouble with ten o'clock
again, we get fogged in. We have run into problems. If the
planes get off the ground, we have no problems. If you make it nine, ten, eleven -- at least from Long Beach we like to come up the night before, only because we are afraid of the air lines.

MR. CRANSTON: That's a chance you take anyway.

John, do you want to add that we meet at ten also in Los Angeles?

MR. CARR: If people are coming up some distance if we made it ten instead of nine it relieves the congestion on the freeway somewhat. I so move -- ten o'clock.

MR. CRANSTON: Both ends of the State. You accept the amendment?

GOV. ANDERSON: Yes.

MR. CRANSTON: Without objection it is so ordered that after the meeting on September 29th we will start meeting at ten o'clock and remember to make your lunch dates later than usual as we may be running past twelve o'clock.

The next meeting will be in Sacramento on Thursday, September 29th, at nine a.m., Room 2170 State Capitol.

If there is no further business, meeting is adjourned.

ADJOURNED 10:05 A.M.

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CERTIFICATE OF REPORTER

I, LOUISE H. LILLICO, reporter for the Division of Administrative Procedure, hereby certify that the foregoing thirty-two pages contain a full, true, and correct transcript of the shorthand notes taken by me in the meeting of the STATE LANDS COMMISSION held in Los Angeles, California on August 25, 1960.

Dated: Sacramento, California, August 31, 1960.

[Signature]

DIVISION OF ADMINISTRATIVE PROCEDURE, STATE OF CALIFORNIA