COMMISSIONERS PRESENT

Kenneth Cory, Chairperson, Controller

David Ackerman, representing Lt. Governor Mike Curb

COMMISSIONERS ABSENT

Susanne Morgan, representing Director of Finance

Mary Ann Graves

STAFF PRESENT

Claire D'Adrick, Executive Officer

James Trout, Assistant Executive Officer

Bob Hight, Esq.

Chief Counsel

Jack Rump, Esq.

Assistant Chief Counsel

Curtis Fossum, Esq.

Staff Counsel

Greg Taylor, Esq.

Assistant Attorney General

Lance Kiley,

Chief, Land Management

ALSO PRESENT

Henry Pollard, Esq.

Pollard, Bauman & Slome, representing

Wrather Port Properties

Barna Szabó

Wrather Port Properties
Proceedings

Call to Order

Item from Executive Session re Allegations Submitted by Pioneer Chicken, aka Cat Mar Corporation

Special Agenda Item: Agreement between City of Long Beach, Harbor Department, and Wrather Corporation

Adjournment

Certificate of Shorthand Reporter

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CHAIRPERSON CORY: As we start, the record will note that the Department of Finance still has enough money left to put their name on their plastic cups.

The record will also note the Chairman's unfairness for taking a left to the representative of the Department of Finance.

The meeting will be called to order, and Mr. Ackerman is here representing the Lt. Governor.

MR. TAYLOR: Mr. Chairman, we have one item to announce from the Executive Session with regard to the petition received from the Pioneer Chicken group, which is officially known as Cat Mar Corporation, raising allegations regarding the number of mooring buoys which actually exist at Catalina.

In light of the charges made in the petition, and the Commission's desire that fair rent be received based upon an actual knowledge of what exists, and because of the potential litigation, the Commission decided at Executive Session that the receipt of bids scheduled now for 2:00 o'clock today will be suspended, and that the Executive Officer and staff will be instructed to conduct an investigation of the charges made in the petition and to report back to the Commission at its next regular
meeting, which I believe is October the 28th, 1982. I believe that accurately reflects your actions.

CHAIRPERSON CORY: And that in terms of the time frame at this point, how much time will be required, the minimum time after the 28th to have bids submitted?

EXECUTIVE OFFICER DEDRICK: I think it kind of depends on what we find in the investigation, Mr. Cory. It shouldn't be extremely long, I shouldn't think. I mean, all you've got to do is recalibrate numbers.

COMMISSIONER ACKERMAN: Whatever, I think the staff has indicated they need a minimum of 30 days, though, in which to review the bid packages and make a recommendation to us for us to take an action. Probably start at the tail end of this process and work forward.

When was our final meeting scheduled?

MR. RUMP: December 16th.

COMMISSIONER ACKERMAN: So you probably would have to have it by, what, early November, have bid packages received so the staff would have time to review them, if that's the process we want to proceed with. That's if you want to make a decision between November and January.

CHAIRPERSON CORY: It seems to me we ought to get this thing behind us, get it cleared up, the allegations that were made. I'm just uneasy about having the allegations made and not having it dealt with.
EXECUTIVE OFFICER DEDRICK: I have one question.

I'd like to ask Mr. Taylor for clarification.

The bidders are bringing in their packages at 2:00 o'clock today. What do we do with them? Give them back to them?

MR. TAYLOR: Give them back to them.

COMMISSIONER ACKERMAN: Don't accept them.

MR. TAYLOR: No one has exposed their hand, and depending on the results of the investigation, it may be necessary, if the number of existing buoys is greater than that shown presently, it can be adjusted and they should make a correction in their bids.

On the other hand, I guess it's also possible that they may find fewer buoys, and that might have an economic effect on their bids, and that should be received.

CHAIRPERSON CORY: The staff can do that?

EXECUTIVE OFFICER DEDRICK: Yes.

CHAIRPERSON CORY: So we'll be able to tell on the 28th, and we're talking about within five to seven days after that 28th, they're to have the bids in?

EXECUTIVE OFFICER DEDRICK: Yes, I would think that is a good time frame.

CHAIRPERSON CORY: That's fine.

All right, the item before us is the Special Agenda which is dealing with the proposed agreement between
the City of Long Beach, an agreement reached by the Harbor Department and the Weather Corporation with respect to the Queen Mary.

EXECUTIVE OFFICER DEDRICK: That's correct.

Essentially, the proposal the Harbor Commission has approved amends to the lease, which among other things extend a variety of options to terminate in December of '88 or '89. It gives about a year more on most of the provisions.

I think you should have legal staff run through these with you to be sure we have everything.

Greg, would you go through the provisions.

MR. TAYLOR: The provisions are outlined on pages 2 and 3 of the Calendar, pages 2, 3, 4, and 5 of the Calendar Item.

They include an extension of the period of time in which Wrather has to elect to use part of the -- no the first one is for the City. It extends the time in which the City has an election to use part of the option area for some development. That extends that to 1989 from 1982.

The second one is an extension of the option to lease, which is held by Wrather, and that extends that period of time until 1988. Presently it would expire in 1985.

Early termination of the lease by Wrather is extended from 1986 to 1989.
The option to purchase the Queen Mary asset is extended from January 1st of 1986, is extended to December 31st of 1989.

There's an extension of time for repayment of energy cost credits and retention of certain percentage of improvements that were paid to spread the time out for repayment from six to seven years, or from a minimum of 6 to 16 years and 7 to 17 years, adding a year to the period of time in which those costs would have to be paid back.

There's a new provision to the lease which provides for rental deferment through 1988, or until after Wrather receives rent or other income from the option area development.

There's also a provision that a credit may be allowed against the deferred rent for expenditures for planning, environmental studies, permit applications, and processing economic and legal analyses, engineering designs, project management and other matters relating to Wrather's plan of development of the area outside the actual ship and the option area.

It has been submitted by staff that this provision can mean that over the period of time that it's effective, the City is waiving, in effect, waiving $7 million in rent that it would have received under the present form of the
lease.

The reason for this is an inducement to Wrather to make the improvements in a speedy manner and to assist them with any financial problems they may be having in trying to keep up with the schedule. This is a business judgment on behalf of the City, and will have to be a business judgment on behalf of the Commission, whether you care to approve that.

EXECUTIVE OFFICER DERRICK: Greg, you left out it does require a $50,000 --

MR. TAYLOR: It does provide a $50,000 annual payment per year.

There is one question, Mr. Chairman, that came up with regard to the definition of legal expenses which have been raised with staff sometime late yesterday and this morning.

We talked to Mr. McJunkin, at the Harbor Department, and he stated that his understanding of legal analysis was routine legal expenses, and was not intended to fund the legal expenses with regard to any dispute the City and Wrather, or the City and the State have with regard to provisions of the lease, and that from their standpoint, their understanding of the term "legal analysis" meant no routine expenses incurred in getting permits and other things, but did not include any dispute with the City of Long Beach.
specifically its Harbor Department, and the State Lands Commission over the lease provisions.

CHAIRPERSON CORY: Is that Wrather's understanding of that as well?

MR. POLLARD: I'm Henry Pollard, representing Wrather.

We didn't discuss this in our negotiations with the Port. Greg's suggestion is acceptable to us, but the language I was just handed seems to me that it doesn't limit the exclusion of legal expenses to matters involving disputes.

I think this language may be broad enough to exclude the types of legal expenditures that you said should not be included; in other words, routine matters.

Perhaps the word "dispute", something that states dispute, somehow should be added to the language that you're inserting.

COMMISSIONER ACKERMAN: I'm wondering, since we're dealing with a lease that has to be approved by more than one agency, can this be handled, Greg, through a letter of understanding?

MR. TAYLOR: That might be the best, and then bring it back to the next Commission meeting for the application.

CHAIRPERSON CORY: Well, if we go ahead and approve
it, subject to a satisfactory Letter of Understanding that the attorneys can work out, and if, you know —

MR. TAYLOR: That would be fine.

CHAIRPERSON CORY: -- if you can't, then it'll come back.

MR. POLLARD: Is it the Commission's sense that this exclusion of legal expenses relating to qualifying expenditures should be limited to legal expenses arising in connection with dispute?

CHAIRPERSON CORY: Basically we don't want to have you using a deferral of payment to the trustee to sue us.

MR. POLLARD: That's acceptable, and with that understanding —

CHAIRPERSON CORY: I think that's what we're talking about. To the extent you've got to be here today for this hearing, if there was analysis connected to present your side of it to the Commission, fine. But if you want to go to court after that, you're on your own meter.

MR. POLLARD: That is entirely acceptable.

CHAIRPERSON CORY: Is that not our position?

MR. HIGHT: Correct.

MR. TAYLOR: I'm trying to reflect your views, the views that were expressed to me by staff the best I can.
COMMISSIONER ACKERMAN: Basically, credit should not be allowed to be used to finance legal expenses to sue the State or City.

MR. POLLARD: That would be acceptable. My only point was, I think this language may go a little farther than that.

CHAIRPERSON CORY: What I would like to do, then, if the other conditions are acceptable, is go ahead with the approval, subject to a Letter of Understanding from the staff. If there is no Letter of Understanding that each side can mutually sign, then it's got to come back to us. I'd like to avoid bringing people back here if we could.

EXECUTIVE OFFICER DELRICK: That's clear.

CHAIRPERSON CORY: Any other details of this?

EXECUTIVE OFFICER DELRICK: Yes, I think, Greg, you should discuss the implications of Paragraphs 10 and 11, which we are recommending the Commission not approve.

MR. TAYLOR: Mr. Chairman, Mr. Ackerman, there are two paragraphs that are not being approved at this time. Those are Paragraphs 10 and 11.

These are with regard to authorization of additional leases subject to many qualifications which are set forth in the Second Amendment. But both of these provisions raise legal questions which are going to be the
discussion, be the subject of ongoing discussions and analysis.

This matter will be brought back to the Commission in an appropriate time within the next couple of months.

COMMISSIONER ACKERMAN: Let me suggest, rather than not approve them, what if we delete them from consideration? That way we haven't addressed them.

I'm not prepared to address them. I'm not prepared to not approve them.

MR. TAYLOR: We're not negative on them.

COMMISSIONER ACKERMAN: Then can we just delete those paragraphs?

MR. TAYLOR: We're just excepting them today.

EXECUTIVE DIRECTOR DEDRICK: I misspoke myself, Commissioner. You're not taking any position at all. You are neither accepting nor rejecting them.

You're just not considering them.

MR. TAYLOR: That's correct.

CHAIRPERSON CORY: The proposed decision that the staff is recommending this morning is to exclude consideration of Paragraphs 10 and 11?

EXECUTIVE OFFICER DEDRICK: Yes.

CHAIRPERSON CORY: Of the agreement pending further analysis of legal issues involved?

EXECUTIVE OFFICER DEDRICK: That's correct.
CHAIRPERSON CORY: That's Wrather's understanding?

MR. POLLARD: Yes, sir.

CHAIRPERSON CORY: That's acceptable?

MR. POLLARD: Yes, sir.

CHAIRPERSON CORY: All right, are there any other items?

EXECUTIVE OFFICER DEDRICK: That's it.

CHAIRPERSON CORY: Without objection, the proposed decision will be adopted with the adjustments that were made; 10 and 11 are excluded from consideration, and the question of legal analysis will be defined by a Letter of Understanding. If not, there is no approval and the thing will come back to us, and we can thrash it out.

All right. It's approved.

Any other things to come before us?

EXECUTIVE OFFICER DEDRICK: No.

(Thereupon this Special Meeting of the State Lands Commission was adjourned at approximately 9:20 a.m.)

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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN DUGGAN MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Special Meeting of the State Lands Commission was reported in shorthand by me, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of October, 1982.

[Signature]
EVELYN DUGGAN MIZAK
Shorthand Reporter

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