

Time Calendar Item No. 18
WEDNESDAY, FEBRUARY 22, 1978
No. 18 Date 2-24-78
Commission to review a vote of 2-24-77
to 2 at its 2-24-77
meeting.

MINUTE ITEM

2/24/78
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(KSS)

18. REVIEW OF STATUS OF LOS ANGELES HARBOR FUND, LOS ANGELES COUNTY - GOS-04.

During consideration of Calendar Item 18 attached, Mr. Larry Hoffman, Chief Assistant City Attorney, City of Los Angeles, appeared. Mr. Hoffman requested that the Commission not take any action on this matter at this meeting, but to recalendar it for March. During the interim, the City would thoroughly reevaluate its position and return in March with a definitive proposal. However, Mr. Hoffman further stated that if the City could not come up with such a proposal, the staff recommendation, as presently proposed, could then be recalendared for March.

Assemblyman Vincent Thomas, representing the 52nd District, appeared. In summary, Mr. Thomas requested that the Commission adopt the resolution as presented, especially Recommendation No. 3.

After a lengthy discussion, Chairman Kenneth Cory suggested that the Commission instruct the staff to continue negotiations with the City. However, in the event the City indicates an unwillingness to negotiate and progress is at a standstill, the staff would, prior to the March meeting, immediately hold a public hearing to establish a record from which the facts can be determined.

In line with the Commission's suggestions, Mr. Gregory Taylor, Assistant Attorney General, read into the record appropriate revised language which is included in the resolution set forth below.

The following resolution, as amended, was adopted by a vote of 3-0:

THE COMMISSION CONTINUES THE AUTHORITY FOR NEGOTIATIONS AUTHORIZED AT THE JANUARY 26, 1977, COMMISSION MEETING AND, IF IN THE OPINION OF THE EXECUTIVE OFFICER, NEGOTIATIONS ARE AT A STANDSTILL PRIOR TO THE MARCH COMMISSION MEETING:

1. RESOLVES THAT THE EXECUTIVE OFFICER IS AUTHORIZED TO NOTICE AND CONDUCT PUBLIC HEARINGS REGARDING THE UTILIZATION OF HARBOR REVENUE FUNDS BY THE CITY OF LOS ANGELES PURSUANT TO THE AUTHORITY PROVIDED TO THE COMMISSION BY PUBLIC RESOURCES CODE SECTION 6110 AND SECTION 13 OF CHAPTER 1946, STATUTES OF 1970.
2. AUTHORIZES THE EXECUTIVE OFFICER, MANAGER, LAND OPERATIONS, AND CHIEF COUNSEL TO ISSUES SUBPOENAS TO EMPLOYEES OF THE

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CITY OF LOS ANGELES FOR THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF DOCUMENTS FOR THE PURPOSE OF INVESTIGATING THE UTILIZATION OF HARBOR REVENUE FUNDS BY THE CITY OF LOS ANGELES, PURSUANT TO THE AUTHORITY PROVIDED TO THIS COMMISSION BY GOVERNMENT CODE SECTIONS 11180 AND 11181.

5. RESOLVES THAT THE ATTORNEY GENERAL MAY, PURSUANT TO SECTION 13, CHAPTER 1046, STATUTES OF 1970, FILE A LAWSUIT AGAINST THE CITY OF LOS ANGELES FOR AN ACCOUNTING OF INTEREST MONIES DIVERTED FROM THE HARBOR REVENUE FUND AND FOR DECLARATORY RELIEF REGARDING THE AMOUNT OF SURPLUS HARBOR REVENUES, IF ANY, THAT MAY BE TRANSFERRED FROM THE HARBOR REVENUE FUND TO THE CITY GENERAL FUND AS REPAYMENT FOR PAST EXPENDITURES BY THE CITY OF LOS ANGELES, SUBJECT TO THE EXECUTIVE OFFICER INFORMALLY NOTIFYING THE COMMISSIONERS OF SAID FILING.
4. AUTHORIZES STATE LANDS DIVISION STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL ACTION NECESSARY TO IMPLEMENT THE FOREGOING.

Attachment:

Calendar Item 18 (4 pages)

18.

REVIEW STATUS OF LOS ANGELES HARBOR FUND

BACKGROUND: At the January 26, 1977 meeting the Commission took the following action:

1. AUTHORIZED STAFF OF THE STATE LANDS DIVISION AND THE ATTORNEY GENERAL TO COMMENCE NEGOTIATIONS WITH REPRESENTATIVES OF THE LOS ANGELES CITY COUNCIL, THE LOS ANGELES BOARD OF HARBOR COMMISSIONERS, AND THE LOS ANGELES CITY ATTORNEY'S OFFICE IN AN EFFORT TO REACH A SETTLEMENT AGREEMENT REGARDING:
(A) THE MAXIMUM SUM THAT MAY BE TRANSFERRED FROM THE HARBOR REVENUE FUND TO THE CITY GENERAL FUND TO REPAY THE CITY FOR EXPENDITURES MADE IN CONNECTION WITH GENERAL OBLIGATIONS BONDS ISSUED FOR HARBOR IMPROVEMENT PURPOSES; (B) THE AMOUNT AND TREATMENT OF INTEREST MONIES OWING TO THE HARBOR REVENUE FUND BY THE CITY GENERAL FUND; AND (C) SUCH OTHER COLLATERAL MATTERS AS MAY BE WITHIN THE PURVUEW OF THE STATE LANDS COMMISSION.
2. DIRECTED THAT SUCH NEGOTIATIONS COMMENCE PRIOR TO FEBRUARY 7, 1977, AND CONTINUE AT MEETINGS TO BE HELD AT LEAST SEMI-MONTHLY THEREAFTER UNTIL SUCH TIME AS AN AGREEMENT HAS BEEN SUBMITTED TO THE COMMISSION FOR APPROVAL, OR UNTIL THE MARCH 1977 MEETING OF THIS COMMISSION, WHICHEVER IS SOONER, IN THE EVENT NEGOTIATIONS CEASE PRIOR TO THAT DATE ALTERNATE RECOMMENDATION NO. 1 SHALL BE CALENDARDED FOR THE NEXT COMMISSION MEETING.
3. DIRECTED THE BOARD OF HARBOR COMMISSIONERS TO REFRAIN FROM TRANSFERRING SURPLUS HARBOR REVENUE TO THE CITY GENERAL FUND UNTIL SUCH INTEREST HAS BEEN ACCOUNTED FOR AND CREDITED TO THE HARBOR REVENUE FUND.
4. AUTHORIZED THE STAFF OF THE STATE LANDS DIVISION AND THE ATTORNEY GENERAL TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE FOREGOING.

These negotiations were authorized at the request of the City as an alternative to the action originally recommended by staff which was that the Commission:

1. DECLARE AND RESOLVE THAT:

- (A) ALL MONEYS IN THE HARBOR REVENUE FUND ARE PRESUMED TO BE TIDELANDS TRUST FUNDS.

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(B) THE CITY OF LOS ANGELES IS IN VIOLATION OF ITS GRANT BY RETAINING PRE 1961 INTEREST EARNED ON HARBOR REVENUES IN THE CITY GENERAL FUND.

2. DIRECT THE CITY TO ACCOUNT FOR AND CREDIT PRE-1961 INTEREST EARNED ON HARBOR REVENUES TO THE HARBOR REVENUE FUND.
3. DIRECT THE BOARD OF HARBOR COMMISSIONERS TO REFRAIN FROM TRANSFERRING SURPLUS HARBOR REVENUES TO THE CITY GENERAL FUND UNTIL SUCH INTEREST HAS BEEN ACCOUNTED FOR AND CREDITED TO THE HARBOR REVENUE FUND.
4. DIRECT THE BOARD OF HARBOR COMMISSIONERS AND THE CITY TO DETERMINE THE MAXIMUM SUM THAT MAY BE TRANSFERRED FROM THE HARBOR REVENUE FUND TO THE CITY GENERAL FUND PURSUANT TO CITY CHARTER § 145(4).
5. AUTHORIZE THE EXECUTIVE OFFICER TO REPORT THIS MATTER TO THE CHIEF CLERK OF THE ASSEMBLY AND THE SECRETARY OF THE SENATE ON OR BEFORE DECEMBER 31, 1977.
6. AUTHORIZE STAFF AND THE ATTORNEY GENERAL TO TAKE ALL ACTION NECESSARY TO IMPLEMENT THE FOREGOING INCLUDING, BUT NOT LIMITED TO LITIGATION.

CURRENT SITUATION:

This item is for the purpose of informing the Commission of the status of the negotiations authorized at the January meeting and to enable the Commission to take such further action as it deems necessary.

A meeting was held on February 7, at which time the City informed us that additional materials in support of the City's apparent contentions would be made available for review by staff. It was suggested that informal staff level meetings between the City, and the State be held to review the materials and clarify the issues.

It appears at this time the City is not willing to enter into any meaningful negotiations. If this situation continues it will be necessary for staff to proceed unilaterally, which would require authority to hold investigative hearings and to issue subpoenas for the attendance of witnesses and the production of documents for

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the purpose of investigating the activities of the City of Los Angeles regarding the utilization of Harbor Revenue Funds. The Commission may also wish to authorize, by resolution, the Attorney General to file a lawsuit pursuant to Section 13, Chapter 1046, Statutes of 1970. Alternately, or in combination with the above, the Commission may wish to adopt the staff recommendations designated as Alternate No. 1, at the last Commission meeting.

IT IS RECOMMENDED THAT THE COMMISSION:

1. RESOLVE THAT THE EXECUTIVE OFFICER, SHALL NOTICE AND CONDUCT PUBLIC HEARINGS REGARDING THE UTILIZATION OF HARBOR REVENUE FUNDS BY THE CITY OF LOS ANGELES PURSUANT TO THE AUTHORITY PROVIDED TO THE COMMISSION BY PUBLIC RESOURCES CODE § 6110.
2. AUTHORIZE THE EXECUTIVE OFFICER; MANAGER, LAND OPERATIONS; AND CHIEF COUNSEL TO ISSUE SUBPOENAS TO EMPLOYEES OF THE CITY OF LOS ANGELES FOR THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF DOCUMENTS FOR THE PURPOSE OF INVESTIGATING THE UTILIZATION OF HARBOR REVENUE FUNDS BY THE CITY OF LOS ANGELES, PURSUANT TO THE AUTHORITY PROVIDED TO THIS COMMISSION BY GOVERNMENT CODE § 11180 AND 11181.
3. RESOLVE THAT THE ATTORNEY GENERAL SHALL, PURSUANT TO SECTION 13, CHAPTER 1046, STATUTES OF 1970, FILE A LAWSUIT AGAINST THE CITY OF LOS ANGELES FOR AN ACCOUNTING OF INTEREST MONEYS DIVERTED FROM THE HARBOR REVENUE FUND AND FOR DECLARATORY RELIEF REGARDING THE AMOUNT OF SURPLUS HARBOR REVENUES, IF ANY, THAT MAY BE TRANSFERRED FROM THE HARBOR REVENUE FUND TO THE CITY GENERAL FUND AS REPAYMENT FOR PAST EXPENDITURES BY THE CITY OF LOS ANGELES.
4. ADOPT THE RECOMMENDATIONS DESIGNATED AS ALTERNATE NO. 1 AT THE JANUARY COMMISSION MEETING, TO WIT:
 - A. DECLARE AND RESOLVE THAT:
 - (a) ALL MONEYS IN THE HARBOR REVENUE FUND ARE PRESUMED TO BE TIDELANDS TRUST FUNDS.
 - (b) THE CITY OF LOS ANGELES IS IN VIOLATION OF ITS GRANT BY RETAINING PRE-1961 INTEREST EARNED ON HARBOR REVENUES IN THE CITY GENERAL FUND.
 - B. DIRECT THE CITY TO ACCOUNT FOR AND CREDIT PRE-1961 INTEREST EARNED ON HARBOR REVENUES TO THE HARBOR REVENUE FUND.
 - C. DIRECT THE BOARD OF HARBOR COMMISSIONERS TO REFRAIN FROM TRANSFERRING SURPLUS HARBOR REVENUES TO THE CITY GENERAL FUND UNTIL SUCH INTEREST HAS BEEN ACCOUNTED FOR AND CREDITED TO THE HARBOR REVENUE FUND.

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- D. DIRECT THE BOARD OF HARBOR COMMISSIONERS AND THE CITY TO DETERMINE THE MAXIMUM SUM THAT MAY BE TRANSFERRED FROM THE HARBOR REVENUE FUND TO THE CITY GENERAL FUND PURSUANT TO CITY CHARTER § 145(4).
- E. AUTHORIZE THE EXECUTIVE OFFICER TO REPORT THIS MATTER TO THE CHIEF CLERK OF THE ASSEMBLY AND THE SECRETARY OF SENATE ON OR BEFORE DECEMBER 31, 1977.
- F. AUTHORIZE STAFF AND THE ATTORNEY GENERAL TO TAKE ALL ACTION NECESSARY TO IMPLEMENT THE FOREGOING INCLUDING, BUT NOT LIMITED TO LITIGATION.

5. AUTHORIZE STATE LANDS DIVISION STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL ACTION NECESSARY TO IMPLEMENT THE FOREGOING.