

MINUTE ITEM

19. APPROVAL OF PROPOSED SETTLEMENT AGREEMENT IN THE MATTER OF LONG BEACH AMUSEMENT CO. v. CITY OF LONG BEACH, LOS ANGELES SUPERIOR COURT NOS. LBC-22801 AND LBC-25199 - W.O. 503.318 AND W.O. 2716.3.

The Chairman read into the record a letter from Senator Virgil O'Sullivan, protesting settlement on the basis of a stipulation as recommended by the staff in Calendar Item 21 attached, suggesting that it would be better to carry this matter through to a Court decision.

The Executive Officer reported that, pursuant to instructions to discuss the protest with Senator O'Sullivan, both he and Deputy Attorney General Jay L. Shavelson had explained the matter to Mr. Ford B. Ford, the Consultant working with Senator O'Sullivan, a member of the Senate Fact Finding Committee. Mr. Ford then appeared and suggested the staff contact Senator O'Sullivan, since he was not authorized to attempt to interpret the Senator's letter.

Mr. Harold A. Lingle, Deputy City Attorney of Long Beach, stated that he had recommended the settlement to the City Council because the stipulated line is a good settlement based on the best evidence available, and that he would not feel at all secure about further delay.

Deputy Attorney General Jay L. Shavelson noted that the stipulated line was, in the opinion of the State's experts, the correct line of ordinary high tide; that going to Court would be a gamble; and that the State had nothing to gain, but perhaps something to lose, by going to Court.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED TO BECOME EFFECTIVE MARCH 6, 1964:

1. THE COMMISSION APPROVES THE AGREEMENT, IN THE FORM OF EXHIBIT "A", INCLUDING EXHIBITS THERETO, ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF;
2. THE EXECUTIVE OFFICER IS AUTHORIZED TO EXECUTE ANY DOCUMENTS NECESSARY TO EFFECTUATE THIS AGREEMENT; AND
3. THE OFFICE OF THE ATTORNEY GENERAL IS REQUESTED TO TAKE ANY ACTION NECESSARY TO SECURE DISMISSAL OF THE PENDING LITIGATION IN THE MATTER OF LONG BEACH AMUSEMENT CO. V. CITY OF LONG BEACH, LOS ANGELES SUPERIOR COURT CASES NOS. LBC-22901 AND LBC-25199.

THE COMMISSION RESERVED THE RIGHT TO ABROGATE THE FOREGOING ACTION BY SPECIAL MEETING BEFORE MARCH 6, 1964, IF IT WAS FELT DESIRABLE TO DO SO AFTER A CONFERENCE BETWEEN THE CHAIRMAN AND SENATOR O'SULLIVAN.

Attachment
Calendar Item 21 (2 pages)

CALENDAR ITEM

21.

APPROVAL OF PROPOSED SETTLEMENT AGREEMENT IN THE MATTER OF LONG BEACH AMUSEMENT CO. v. CITY OF LONG BEACH, LOS ANGELES SUPERIOR COURT NOS. LBC-22801 AND LBC-25199 - W.O. 503.318 AND W.O. 2716.3.

The subject law suits were filed respectively on September 14, 1956, and on June 18, 1958. The plaintiff seeks damages from the City for alleged misuse of properties deeded to the City for street purposes in 1903 by the plaintiff's predecessor in interest (Seaside Water Co.), as well as a declaration of plaintiff's rights in such property.

Since one of the issues in this litigation is the legal location of the line between the deeded properties and State-granted tidelands, the State of California is a necessary party defendant under Section 6308 of the Public Resources Code.

The proposed settlement agreement (see Exhibit "A") provides for the establishment of the mean high tide line of 1911 as the last natural position of the shore in the areas in question. This is in accordance with the opinion dated February 19, 1957, of Colonel Leeds, a consulting seacoast engineer to the State Lands Commission. The line will be legally established by delivery by the plaintiff of quitclaims of lands southerly of this line.

The plaintiff will quitclaim an area designated as Parcel 1 (see Exhibit "B") to the City of Long Beach, which will vest in the City fee title to the surface and will confirm the plaintiff's ownership of the underlying minerals. The plaintiff will quitclaim the areas designated as Parcel 2 upon payment of \$12,500 by the City to the plaintiff. This transaction will give the City fee title to the parcel, including minerals. The City will gain unrestricted use of the surface, as against present limited use for street purposes, plus clear ownership of the mineral rights.

The plaintiff will waive its primary claim for damages against the City, based upon certain alleged obstruction of those portions of Seaside Boulevard covered by Parcels 1 and 2.

Another provision of the settlement agreement provides that the City will extend an existing parking lot and amusement concession lease now held by the plaintiff at a rental ranging between \$350 and \$500 per month. This lease area parking lot is located upon trust lands, and the revenues are trust revenues. Although the rental appears low when the property is appraised at its unrestricted highest and best use, the City states that the use of this land by the plaintiff during the term of the lease will be restricted to its present use, i.e., parking lot, picnic area, playground, and concessions, and will be so restricted until the City's plans for its redevelopment in connection with the proposed shoreline improvements between Los Angeles River and Alamitos Avenue in Long Beach are completed.

At the suggestion of the office of the Attorney General, the staff made an over-all review of the proposed settlement agreement. It was determined that

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the establishment of the mean high tide line in the areas in question, as provided in the agreement, is, as stated above, in accordance with the State's views. Study revealed that the payment of \$12,500 by the City to the plaintiff for mineral rights in Parcel 2 was not excessive and not at the expense of the tideland trust, since it is doubtful that the value of mineral rights could equal \$12,500, let alone exceed it.

Although the plaintiff's agreement in respect to Parcel 1 to commit its land to the Long Beach Unit does not create any obligation on the part of the City or the State, it is desirable from the State's standpoint, since said agreement will facilitate formation of the Long Beach Unit. The City, of course, is deriving benefit from the unrestricted use of the surface as against present limited use for street purposes. The agreement gives the Company a right of access over certain trust lands. The Company and its attorneys have been expressly informed that the duration and extension of this right is subject to all applicable limitations set forth in the various legislative grants to the City of Long Beach. The office of the Attorney General is of the opinion that execution of the subject agreement is in the best interest of the State.

IT IS RECOMMENDED:

1. THAT THE COMMISSION APPROVE THE AGREEMENT, IN THE FORM OF EXHIBIT "A", INCLUDING EXHIBITS THERETO, ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF;
2. THAT THE EXECUTIVE OFFICER BE AUTHORIZED TO EXECUTE ANY DOCUMENTS NECESSARY TO EFFECTUATE THIS AGREEMENT; AND
3. THAT THE OFFICE OF THE ATTORNEY GENERAL BE REQUESTED TO TAKE ANY ACTION NECESSARY TO SECURE DISMISSAL OF THE PENDING LITIGATION IN THE MATTER OF LONG BEACH AMUSEMENT CO. V. CITY OF LONG BEACH, LOS ANGELES SUPERIOR COURT CASES NOS. LBC-22901 AND LBC-25199.