MINUTE ITEM 7/6/72
CRK

31. DETERMINATIONS RELATING TO A LEASE OF GRANTED TIDE AND SUBMERGED LANDS BETWEEN CITY OF LONG BEACH (GRANTEE) AND FEINBERG DEVELOPMENT CORPORATION, LOS ANGELES COUNTY - W 20351.

After consideration of Calendar Item 29 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION MAKES THE FOLLOWING DETERMINATIONS, REQUIRED BY SECTION 6702 OF THE PUBLIC RESOURCES CODE, AS APPLYING TO THAT CERTAIN LEASE OF GRANTED TIDE AND SUBMERGED LANDS DATED MARCH 9, 1972, BETWEEN THE CITY OF LONG BEACH AND FEINBERG DEVELOPMENT CORPORATION, SAID LEASE FURTHER IDENTIFIED AS DOCUMENT NO. HD-2224, ON FILE WITH THE STATE LANDS DIVISION AND BY REFERENCE MADE A PART HEREOF:

1. THAT SAID LEASE IS IN ACCORDANCE WITH THE TERMS OF THE GRANTS UNDER WHICH TITLE TO THE LANDS IN QUESTION ARE HELD BY THE CITY OF LONG BEACH.

2. THAT, PURSUANT TO SECTION 229d OF THE CITY CHARTER, THE PROCEEDS OF SAID LEASE SHALL BE DEPOSITED IN THE HARBOR REVENUE FUND AND EXPENDABLE ONLY FOR HARBOR DEVELOPMENT, OPERATION AND MAINTENANCE, A STATE-WIDE BENEFIT.

3. THAT SAID LEASE IS IN THE BEST INTERESTS OF THE STATE.

THE ABOVE RECOMMENDATION IS CONDITIONED ON A PROVISO THAT THE CITY OF LONG BEACH PROVIDE TO THE DIVISION PRIOR TO AUGUST 20, 1972, AN AMENDMENT TO THE LEASE OR OTHER DOCUMENT THAT WILL PERMIT STATE-OWNED CRAFT TO USE PARCEL IV AS DESCRIBED IN THE LEASE WITHOUT CHARGE, AND GUARANTEE AVAILABILITY OF FACILITIES ON ALL PARCELS TO THE GENERAL PUBLIC WITHOUT DISCRIMINATION AS TO RATES OR USE; AND, FURTHER, THAT IF SUCH AMENDMENT OR DOCUMENT IS NOT DELIVERED TO THE STATE LANDS DIVISION BY AUGUST 20, 1972, THE COMMISSION DECLINES TO MAKE THE AFORESAID DETERMINATIONS AND AUTHORIZES APPROPRIATE NOTIFICATION THEREOF TO THE PARTIES.

Attachment:
Calendar Item 29 (4 pages)

SUPPLEMENTAL CALENDAR ITEM

6/72
CRK
W 20351

29.

DETERMINATIONS RELATING TO A LEASE OF
GRANTED TIDE AND SUBMERGED LANDS BETWEEN
CITY OF LONG BEACH (GRANTEE) AND
FEINBERG DEVELOPMENT CORPORATION

The City of Long Beach has requested the Commission to make the determinations set forth in Section 6702(b) of the Public Resources Code with respect to the lease described below. Briefly the determinations relate to (1) conformance with terms of the granting statutes, (2) proceeds of the lease shall be expended for State-wide purposes authorized by such statutes, and (3) the lease is in the best interests of the State.

DESCRIPTION OF LEASE

LESSOR: City of Long Beach.

LESSEE: Feinberg Development Corporation. Incorporated in California on January 31, 1972.

LOCATION: Three parcels of filled tide and submerged land totalling 15.2 acres and one 3.6-acre water parcel located adjacent to the southerly abutment of the Queen's Way Bridge.

LAND USE: A hotel-restaurant complex (one hotel to be Queensway Hilton) on the filled land and transient mooring facilities for yachts and boats on the water parcel.

Estimated Cost: $18,000,000.

Construction to be completed within four years.

TERMS:

Duration: 60 years from April 1, 1972, for the filled land and 40 years for the water parcel.

Rental: A minimum of $36,000 per annum during the third lease year, escalating to $144,000 per annum during the sixth and successive lease years, supplemented by 2½% to 6% of gross receipts.

Public liability insurance: $100,000/$200,000 for personal injury and $500,000 for property damage; $2,000,000 combined single limit for injury and property loss or damage.

Surety bond: None. However, there is a Guarantee by Adolph K. Feinberg Real Estate Co., Inc., a Missouri corporation, guaranteeing the construction of facilities. Also, construction performance bonds are required.

ENVIRONMENTAL IMPACT OF THE LEASE

The City submitted an environmental impact statement to the Division, and it was circulated to affected governmental agencies. The Air Resources Board noted the project's contribution to air pollution by 1,000 vehicles/day and the consumption of natural gas. This is common to all such developments and is not considered to be a significant adverse effect. On the plus side, the construction will result in considerable visual enhancement to the environment.

CONFORMANCE WITH TERMS OF THE GRANTS

Legislative acts affecting the leased land are:

Chapter	Year
676	1911
102	1925
158	1935
29	1956, First Extra Session
138	1964, First Extra Session

The Division found the lease to be in accordance with terms of the above-listed statutes in all respects, except the following:

1. The lessee is not required expressly to make boating facilities on the water parcel available for State-owned craft without charge.

2. There is no guarantee that the facilities on the water parcel shall be open to the general public without discrimination as to rates or use.

In addition, the lease does not provide for public access to fish in waters abutting the leased parcels. However, fishing sites are available at many areas elsewhere in the Harbor District, and this is legally sufficient.

As to Items (1) and (2) above, the City of Long Beach has been advised that either an amendment to the lease or letter of clarification executed by both parties is required.

DISPOSITION OF PROCEEDS

The granting statutes do not prescribe any use of funds generated by this lease, although such funds may only be used for authorized trust purposes. However, under the City Charter, the proceeds must be deposited to the credit of the "Harbor Revenue Fund". Expenditures from this Fund may be used only for purposes directly related to operation, maintenance, and improvement of the harbor. Money deposited in the Fund may be invested. The disposition of funds from this lease into the Harbor Revenue Fund complies with the granting statutes and Section 6702.

DOES THE LEASE SERVE THE BEST INTERESTS OF THE STATE?

Harbor Revenue Fund

If this project is successful, the net annual income to the grantee could exceed $215,000 which, through the Harbor Revenue Fund, will be available for trust purposes, harbor development and operations.

Economic Feasibility

The question arises as to whether the construction of 400 hotel units on the leased premises will adversely affect other investments in the Queen Mary--also to have 400 hotel rooms. The proposed Pacific Terrace-Convention Center Sheraton Hotel offers further competition.

The developers of Queensway will build only one 200-room hotel during a first phase. This will afford opportunity to test the market as development proceeds. Also, the leases requires lessee to submit a Master Plan to the City within two months. It is assumed that the City will, in acting on the Plan, consider all economic aspects of the project including its relationship to the Queen Mary and other competition. Finally, the City's only investment is $1,345,633 for the land fill (initially made to support the bridge abutment and ramps) and, since site clearance is provided for in the lease, there is little risk of liability accruing to the granted land and to the State.

Consideration

Capitalization of the minimum annual rent after amortizing cost of the land fill and allowing for depreciation of paving and utilities indicates a land value of $1,597,200, increasing to $3,595,500 if the project succeeds as estimated.

The rental is considered adequate in light of the fact that the lease is the result of nationwide advertising and investigation of six other bids to develop the granted land.

State-wide Public Benefit

The estimated benefits accruing from the lease to the general public are three-fold:

1. The income will contribute to betterment of the harbor facilities for the promotion of commerce and navigation to serve the State.

2. The hotel, restaurant and boat mooring facilities will serve the general public, with emphasis on the commercial traveler and conventioneer.

3. An area of granted land that is now a visual detriment to the environment will be transformed into an attractive and modern hotel-restaurant-shops complex with shrubbery, trees and grass.

SUPPLEMENTAL CALENDAR ITEM NO. 29. (CONTD)

EXHIBITS: A. Location Map. B. Site Drawings.

IT IS RECOMMENDED THAT THE COMMISSION MAKE THE FOLLOWING DETERMINATIONS, REQUIRED BY SECTION 6702 OF THE PUBLIC RESOURCES CODE, AS APPLYING TO THAT CERTAIN LEASE OF GRANTED TIDE AND SUBMERGED LANDS DATED MARCH 9, 1972, BETWEEN THE CITY OF LONG BEACH AND FEINBERG DEVELOPMENT CORPORATION, SAID LEASE FURTHER IDENTIFIED AS DOCUMENT NO. HD-2224, ON FILE WITH THE STATE LANDS DIVISION AND BY REFERENCE MADE A PART HEREOF:

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