MINUTE ITEM 7/25/72
EWC

5. 20-YEAR COMMERCIAL LEASE, SUBMERGED LAND IN LAKE TAHOE AT BURTON CREEK, PLACER COUNTY, AND AMENDMENT TO PUBLIC AGENCY LEASE PRC 2754.9; STAR HARBOR COMPANY - W 8696, PRC 4694.1, PRC 2754.9.

During consideration of Calendar Item 4 attached, Deputy Attorney General Warren J. Abbott, on behalf of the Office of the Attorney General, requested that the Commission defer action on this item until the Environmental and Consumer Protection Unit of the Attorney General's Office has had an opportunity to review the environmental impact report.

Al Rutsch, Assistant Executive Officer of the Wildlife Conservation Board, informed the Commission that the Board is anxious to have this item approved as they will benefit from the project.

Bill Chidlaw, Attorney, representing Star Harbor Company, reported that his client is ready to go forward on the project, the application for which has been pending for almost two years. Star Harbor Company has received all required agency approvals, and, on their behalf, Mr. Chidlaw requested that Commission approval not be delayed.

Upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. FINDS THAT, IN ACCORDANCE WITH ENVIRONMENTAL IMPACT REPORT NO. 62, ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF, A COMMERCIAL LEASE AND AN AMENDMENT OF PUBLIC AGENCY LEASE PRC 2754.9 AS RECOMMENDED HEREIN WILL NOT HAVE A SIGNIFICANT DETRIMENTAL EFFECT.

2. UNLESS WRITTEN OBJECTIONS ARE RECEIVED FROM THE OFFICE OF THE ATTORNEY GENERAL BY WEDNESDAY, AUGUST 2, 1972, AUTHORIZES THE ISSUANCE TO STAR HARBOR COMPANY OF A 20-YEAR COMMERCIAL LEASE FROM AUGUST 1, 1972, IN CONSIDERATION OF ROYALTY IN THE AMOUNT OF $0.10 PER CUBIC YARD, RENTAL FOR THE FIRST YEAR OF $1,128.75, FOR THE SECOND YEAR OF $4,515.00, FOR THE THIRD YEAR $6,772.50, AND FOR ANNUAL RENT IN THE AMOUNT OF $9,030 THEREAFTER WITH THE STATE RESERVING THE RIGHT TO RESET A REASONABLE RENTAL ON EACH FIFTH ANNIVERSARY, REMOVAL OF DERELICT PILINGS, PROVISION OF A $50,000 SURETY BOND, PUBLIC LIABILITY INSURANCE IN AMOUNTS OF $500,000/$1,000,000 FOR PERSONAL INJURY AND $100,000 FOR PROPERTY DAMAGE: AND PROVIDING FOR CONTINUATION BEYOND THE FIRST FIVE YEARS CONDITIONED UPON A REVIEW OF THE ENVIRONMENTAL EFFECTS AND ALLOWED UPLAND USE; FOR THE CONSTRUCTION AND OPERATION OF A MARINA ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

3. IF OBJECTIONS ARE RECEIVED FROM THE OFFICE OF THE ATTORNEY GENERAL, AUTHORIZES THAT A SPECIAL HEARING BE HELD ON THURSDAY, AUGUST 3, 1972, TO CONSIDER THE MATTER FURTHER.

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4. AUTHORIZES THE ISSUANCE OF AN AMENDMENT TO PUBLIC AGENCY LEASE PRC 2754.9 TO PERMIT CONSTRUCTION OF A BREAKWATER EXTENSION WITHIN THE AREA LEASED TO THE WILDLIFE CONSERVATION BOARD (DEPARTMENT OF FISH AND GAME).

Attachment:
Calendar Item 4 (4 pages)

CALENDAR ITEM

7/72
EWC
W 8696

4.

COMMERCIAL LEASE

APPLICANT: Star Harbor Company.

LOCATION: A 3.569-acre parcel of submerged land in Lake Tahoe at Burton Creek, Placer County.

LAND USE: The construction, maintenance and operation of bulkheads and a marina, including dredging of approximately 6,000 cubic yards of material and filling of approximately 3,000 cubic yards.

TERMS OF PROPOSED LEASE:

Initial period: 20 years, from July 1, 1972.

Renewal options: Two additional periods of ten years each.

Surety bond: $50,000. Public liability insurance: $500,000/ $1,000,000 for personal injury and $100,000 for property damage.

CONSIDERATION: $1,128.72 upon execution for the first year; $4,515.00 for the second year; $6,772.50 for the third year; and $9,030.00 per annum thereafter, with State reserving the right to review and reset a reasonable rental on each fifth anniversary. This rental schedule reflects the applicant's construction schedule. Royalty $0.10/Cu. Yd.

BASIS FOR CONSIDERATION:

6% of appraised value of land.

PREREQUISITE ITEMS:

U.S. Army Corps of Engineers permit issued.
California Tahoe Regional Planning Agency approval obtained.
Applicant is owner of upland.

STATUTORY AND OTHER REFERENCES:

a. Public Resources Code: Division 6, Parts 1 and 2.
b. Administrative Code: Title 2, Division 3, Articles 1 and 2.

OTHER PERTINENT INFORMATION:

1. The applicant has provided an environmental statement which has been circulated to agencies and persons with jurisdiction and expertise. A volume of adverse comments has been received, most of which has been incorporated in the environmental impact report.

   The principal problems appear to be the lack of detailed factual evidence upon which to base an opinion of impact, and the approvals of various agencies being obtained without the environmental questions being answered. The applicant is asking for Commission approval now, with these problems left not satisfied to the degree which

agencies concerned with water quality require. The lease terms will prohibit pollution of the waters of Lake Tahoe; and the State Water Resources Control Board retains control on construction and operation of the marina.

2. The project, according to the applicant, is an integrated one with the residential development on the upland. However, while the Tahoe Regional Planning Agency has indicated that further review of the marina proposal is not required, it has thus far refused to permit the construction of 100 units on the upland, now zoned for recreational use. Approval of the lease on the marina, therefore, will permit the construction of a marina for which there may never be full use by the applicant. If, however, the upland should be developed for recreational use, the marina would be available for public use. It would not appear to be in the public interest, however, to postpone or deny this application until the basic land-use conflicts can be settled. The public launching ramp needs the protection afforded by the proposed breakwater extension. It is therefore recommended that a lease be issued allowing construction of the marina, with review by the Commission of the lease after five years as to termination or amendment of the lease if, at that time:

   a. the upland units are not approved by the Tahoe Regional Planning Agency; or

   b. the Homeowners' Association has not adopted specific by-laws, restrictions or other effective regulations dealing specifically with the "use pollution" probltems discussed in the environmental impact report; or

   c. a reassessment of the effects upon water quality and shoreline processes after construction of the marina shows a significant detrimental environmental effect.

   If the applicant's assertions of no ill effects bear out, the lease could be allowed to continue. If not, the applicant will be required to remove the structure or mitigate or correct the ill effects.

3. The applicant intends, after completion of construction, to assign the lease to the Homeowners' Association.

EXHIBITS: A. Land Description. B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT, IN ACCORDANCE WITH ENVIRONMENTAL IMPACT REPORT NO. 62 ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF, A COMMERCIAL LEASE AND AMENDMENT OF PUBLIC AGENCY LEASE AS RECOMMENDED HEREIN WILL NOT HAVE A SIGNIFICANT DETRIMENTAL ENVIRONMENTAL EFFECT.

2. AUTHORIZE THE ISSUANCE TO STAR HARBOR COMPANY OF A 20-YEAR COMMERCIAL LEASE FROM AUGUST 1, 1972, IN CONSIDERATION OF ROYALTY IN THE AMOUNT OF $0.10 PER CUBIC YARD, RENTAL FOR THE FIRST YEAR OF $1,128.75, FOR THE SECOND YEAR OF $4,515.00, FOR THE THIRD YEAR $6,772.50, AND FOR ANNUAL RENT IN THE AMOUNT OF $9,030 THEREAFTER WITH THE STATE RESERVING THE RIGHT TO RESET A REASONABLE RENTAL ON EACH FIFTH ANNIVERSARY, REMOVAL OF DERELICT PILINGS, PROVISION OF A $50,000 SURETY BOND, PUBLIC LIABILITY INSURANCE IN AMOUNTS OF $500,000/$1,000,000 FOR PERSONAL INJURY AND $100,000 FOR PROPERTY DAMAGE; AND PROVIDING FOR CONTINUATION BEYOND THE FIRST FIVE YEARS CONDITIONED UPON A REVIEW OF THE ENVIRONMENTAL EFFECTS AND ALLOWED UPLAND USE; FOR THE CONSTRUCTION AND OPERATION OF A MARINA ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

3. AUTHORIZE THE ISSUANCE OF AN AMENDMENT TO PUBLIC AGENCY LEASE PRC 2754.9 TO PERMIT CONSTRUCTION OF A BREAKWATER EXTENSION WITHIN THE AREA LEASED TO THE WILDLIFE CONSERVATION BOARD (DEPARTMENT OF FISH AND GAME).

Attachment: Exhibit "A"

EXHIBIT "A"

W 8696

A parcel of submerged land lying in the bed of Lake Tahoe, adjacent to fractional Section 5, T. 15 N., R. 17 E., M.D.M., Placer County, State of California, more particularly described as follows:

BEGINNING at Station #242 in the low water mark as shown on Sheet 12 of 22 of that survey filed in the Office of the Recorder in Book 2 of Surveys at page 71, Placer County Records; said point being the southeast corner of that tract of land known as "Star Harbor Unit #1" filed in the Office of the Recorder in Map Book I at page 62, Placer County Records; thence from said point of beginning, along said low water mark, S. 70° 00' 44" E., 114.99 feet to a point on the east line of that parcel of land shown on the map filed in the Office of the Recorder in Book #4 of Surveys at page 14, Placer County Records; thence leaving said low water mark, along said east line and its production, S. 02° 29' 00" W., 443.79 feet; thence N. 83° 30' 00" W., 239.59 feet; thence N. 31° 00' 00" W., 156.00 feet; thence N. 08° 30' 00" W., 236.00 feet; thence N. 13° 59' 51" E., 119.00 feet to a point on the aforementioned low water mark; thence along said low water mark, N. 85° 06' 40" E., 8.00 feet; thence S. 83° 03' 33" E., 229.37 feet to the point of beginning.

END OF DESCRIPTION