

MINUTE ITEM

This Calendar Item No. 34.  
was approved as Minute Item  
No. 34 by the State Lands  
Commission by a vote of 3  
to 0 at its 8.22.79  
meeting.

CALENDAR ITEM  
34.

8/79  
W 22137  
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DETERMINATIONS CONCERNING LEASE BETWEEN  
CITY OF LONG BEACH AND ANCIENT MARINER-  
RUSTY PELICAN, INC.

The City of Long Beach has requested the Commission to  
make the determinations set forth in Section 6702 (b) of  
the P.R.C. with respect to the lease described below. Briefly,  
the determinations relate to: (a) conformance with the  
terms of the granting statutes; (b) proceeds of the lease  
shall be expended for Statewide purposes as authorized  
by such granting statutes; and (c) that the lease is in  
the best interests of the State.

DESCRIPTION OF LEASE

LESSOR: City of Long Beach  
c/o John E. Dever, City Manager  
300 W. Ocean Boulevard  
Long Beach, California 90802

LESSEE: Ancient Mariner - Rusty Pelican, Inc.  
(A California Corporation)  
2862 McGraw Avenue  
Irvine, California 92714

LOCATION: A parcel of filled tide and submerged land  
containing approximately 9191 square feet  
(0.211 acres) together with use of an existing  
parking area of 60,000 square feet, at  
Long Beach Marina's Basin II parking lot.  
(see site map EXHIBIT "A")

LAND USE: Quality restaurant and ancillary parking  
on existing filled lands currently used  
as a parking lot. Estimated cost to construct  
and equip: \$1.3 million. Construction  
to be completed within 9 months from lease  
commencement date. No dredging or filling  
is required.

TERMS: Duration: 40 years from first day  
of the first full calendar  
month following the date  
of execution of the lease  
by the City.

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Rental: Minimum annual rental  
as scheduled below:

<u>YEAR</u>	<u>RENT</u>
1	\$22,000
2	\$26,000
3-10	\$30,000

Minimum rental is adjusted thereafter in 5-year increments to reflect 90% of the average rental (including percentage) paid by lessee during the preceding 5-year period.

Percentage Rental:

- (1) Restaurant and cocktail lounge - 3%
- (2) Vending machines - 10%

Public liability insurance: \$1,000,000  
combined single limit  
(coverage includes dram  
shop liability coverage)  
for public liability,  
property damage and product  
liability.

Surety bond:

None. Lessee is to provide  
a completion bond (100%  
of construction costs)  
or performance and labor  
and material bonds supplied  
by lessee's contractor(s)  
to assure lessor that  
sufficient monies are  
available to complete  
the proposed construction.

ENVIRONMENTAL IMPACT OF THE LEASE

In accordance with CEQA and the State EIR Guidelines the City of Long Beach conducted an initial study of the restaurant proposal. The City subsequently prepared and certified a Negative Declaration for the project. The City found that the project would not have significant environmental impact if mitigated as detailed in the Negative Declaration. The mitigation relates to use of energy conservation features, limiting construction to normal daytime working hours and repair of any damage to street improvements.

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CONFORMANCE WITH GRANTING STATUTES

Legislative acts relating to the leased lands include:

<u>CHAPTER</u>	<u>YEAR</u>
676	1911
102	1925
158	1935
29	1956 1st Extraordinary Session
138	1964 1st Extraordinary Session

Staff finds the lease to be in accordance with the terms and conditions of the granting statutes.

DISPOSITION OF LEASE PROCEEDS

All revenues derived by the City under the proposed lease are required by Long Beach City Charter Section 260.2 to be deposited in the "Tideland Operating Fund." Such fund is impressed with the trust upon which the California Legislature granted tide and submerged lands, including the site of the subject lease, to the City of Long Beach. The money in the Tideland Operating Fund may be invested (proceeds to be reinvested to the fund) and expended only for purposes directly related to the operation, maintenance and improvement of the legislatively granted lands. The monies may also be used to acquire lands which would thereupon become part of and impressed with the public trust. The disposition of the lease proceeds into the Tideland Operating Fund complies with the granting statutes and Section 6702 of the P.R.C.

IS THE LEASE IN THE BEST INTERESTS  
OF THE STATE?

LAND USE:

The existing site is currently used as a parking lot for Basin II of the marina. Because of the layout of the existing dock system, the parking lot receives minimum usage. Due to this underutilization of the site the City considered it a prime parcel for restaurant development. The parcel also provides an excellent view of the marina. In order to provide citizen input, the Marina Advisory Committee was consulted and approved the concept of restaurant use for the site.

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CONSIDERATION: The City of Long Beach contracted with a local real estate appraiser (Jack R Strobel, M.A.I.) for an opinion as to the market value of the site. The estimate of value was predicated on a highest and best use of the parcel as a restaurant site. The City relied on Mr. Strobel's opinion in setting a value for the site at \$6.00 per square foot. In setting the minimum annual rental for the site the City used an 8% capitalization rate (8% is the rate currently used by the Commission in it's general leasing practice). Staff has found the 3% rate applied to gross revenue on food and beverage to be in line with prudent leasing practices.

In pursuing development of the site the City solicited proposals for the premises. Prospective lessees were required to submit bids for the purchase of the option to lease the site. The lease is the result of an advertising effort, was reviewed by investment and banking institutions for marketability and appears to be economically feasible. In light of the above staff believes that the proposed consideration is adequate.

STATE-WIDE PUBLIC BENEFIT

Some of the benefits accruing from the lease to the general public include:

- a) The restaurant will serve the general public including a large population of visitors to the area.
- b) The restaurant will benefit more people than if the site were left undeveloped or developed for other trust purposes.
- c) Income accruing from the lease will be used for the betterment of the granted lands and aid in promoting related trust uses of the adjacent lands.

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- d) Current site is underutilized; the City has found that a restaurant would be the highest and best use for the site.
- e) The proposed development is consistent with general plans for the area and would provide the general public with an ancillary facility for enhanced use of the granted lands with a minimum of environmental impact to the area.

TIDELAND OPERATING FUND

All revenues generated from the venture will be deposited in the City's "Tideland Operating Fund". The fund is impressed with the trust and will be available for betterment of the granted lands consistent with the granting statutes and general trust provisions.

EXHIBIT: A. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE CITY OF LONG BEACH, IN ACCORDANCE WITH CEQA AND THE STATE EIR GUIDELINES, COMPLETED AND CERTIFIED A NEGATIVE DECLARATION ON THE SUBJECT RESTAURANT PROPOSAL ON MARCH 22, 1979.
2. MAKE THE FOLLOWING DETERMINATIONS, REQUIRED BY SECTION 6702 OF THE P.R.C., AS APPLYING TO THAT CERTAIN OPTION AGREEMENT AND LEASE AND FIRST AMENDMENT THERETO DATED FEBRUARY 1, 1979 AND MARCH 29, 1979, RESPECTIVELY, BETWEEN THE CITY OF LONG BEACH AND ANCIENT MARINER - RUSTY PELICAN, INC., ON FILE IN THE PRINCIPAL OFFICE OF THE COMMISSION AND BY REFERENCE MADE A PART HEREOF.
  - (a) THAT SAID OPTION AGREEMENT, LEASE AND FIRST AMENDMENT THERETO IS IN ACCORDANCE WITH THE TERMS OF GRANTS UNDER WHICH TITLE TO THE LANDS IN QUESTION ARE HELD BY THE CITY OF LONG BEACH.
  - (b) THAT, PURSUANT TO SECTION 260.2 OF THE LONG BEACH CITY CHARTER, ALL REVENUES DERIVED BY THE CITY FROM THE OPTION AND LEASE SHALL BE DEPOSITED IN THE "TIDELAND OPERATING FUND" AND EXPENDABLE ONLY FOR STATE-WIDE PURPOSES AS AUTHORIZED BY THE GRANTING STATUTES.

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(c) THAT SAID OPTION AGREEMENT, LEASE AND FIRST AMENDMENT  
THERE TO IS IN THE BEST INTERESTS OF THE STATE.

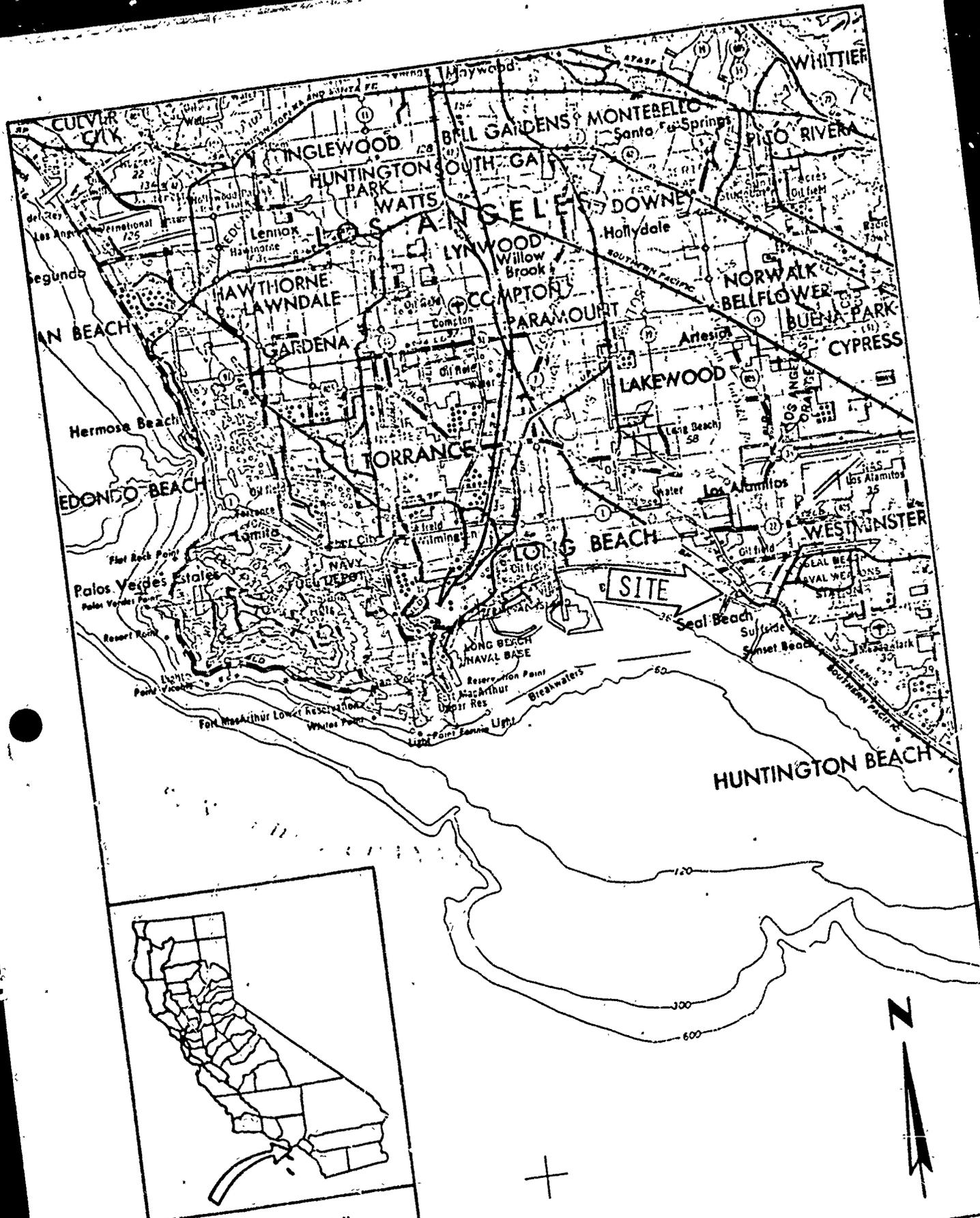


EXHIBIT "A"

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