

MINUTE ITEM

This Calendar Item No. 24
was approved as Minute Item
No. 24 by the State Lands
Commission by a vote of 3
0 at its 6-26-80
meeting.

MINUTE ITEM

6/26/80
W 21082
Scott

24. AUTHORIZATION TO TERMINATE LEASE PRC 5257.1.

During consideration of Calendar Item 24 attached, Commission-Alternate David Ackerman stated he had advised Mr. Harvey that unless payment was made by the date specified, he would have to concur in the staff's recommendation. Since payment was not made, Mr. Ackerman moved, and the Commission approved, that the resolution as presented in Calendar Item 24 by a vote of 3-0.

Attachment: Calendar Item 24.

A 4
S 4

| | |
|---------------|-------------|
| CALENDAR PAGE | _____ |
| MINUTE PAGE | <u>1318</u> |

CALENDAR ITEM

24.

6/80
W 21082
PRC 5257.1
Scott

AUTHORIZATION TO TERMINATE LEASE PRC 5257.1

APPLICANT: Walter M. Harvey
P.O. Box 1222
Sacramento, California 95806

AREA, TYPE LAND AND LOCATION: A 0.429 acre parcel of tide and submerged land in the Sacramento River adjacent to the Old Sacramento Development, City and County of Sacramento.

LAND USE: Installation and maintenance of one stern wheeled steamboat with ramp and floating dock to be used as a floating restaurant, lounge and bar.

BACKGROUND: At its meeting on February 24, 1977, Minute Item 21, the Commission authorized the issuance of a Commercial Lease to Walter M. Harvey, for the placement of a steamboat, to be used as a floating restaurant, lounge and bar in the Sacramento River adjacent to Old Sacramento. The approved lease required the payment of a minimum annual rental of \$1400 for the first year and \$2800 each year thereafter commencing on February 1, 1978, plus a percentage of gross income. The percentage of gross income is to be paid at the end of each lease year. Due to various circumstances, some of which appeared to be beyond the control of our Lessee, the Lessee requested the lease be amended to change the date on which the first rental payment would fall due from February 1, 1978 to February 1, 1979. The Commission approved such an amendment at its meeting of February 23, 1978, as Minute Item 24. This extension of time before the first rental payment would fall due was to allow the Lessee time to secure all other permits to construct and place the proposed steamboat.

A 4
S 4

-1-

| | |
|---------------|------|
| CALENDAR PAGE | 184 |
| MINUTE PAGE | 1319 |

(Added 6/23/80)

CALENDAR ITEM NO. 24. (CONTD)

In accordance with the amended lease, staff invoiced the Lessee on January 1, 1979, for the first annual payment which was due February 1, 1979. When payment was not received in a reasonable period, after the due date, staff sent several follow-up requests for payment advising Lessee of penalty and interest accruing on the past due rental payment and the possible consequences of non-payment. After more than a reasonable period of time had passed, staff prepared and submitted to the Commission a request for authority to terminate this lease for non-payment of rental. This request for authority to terminate was prepared as Calendar Item No. 2 for consideration by the Commission at its meeting on July 17, 1979. This item was removed from consideration at that meeting in that Lessee had made the rental payment including penalty and interest on July 16, 1979.

CURRENT SITUATION:

In accordance with staff's normal practice, the Lessee was invoiced on January 1, 1980, 30 days in advance of the rental due date. When payment or correspondence was not received, staff sent follow-up requests advising Lessee of penalty and interest accruing on the rental payment. These follow-ups were mailed on March 14, April 25, and May 15, 1980.

The staff originally prepared a Calendar Item terminating the lease, for the Commission's consideration at its May meeting, but the item was put over for one month. Recently, a meeting was held in the Lieutenant Governor's Office with representatives of the Commission's staff and the Lessee. The results of that meeting were: 1) if Lessee paid the minimum annual rental of \$2,800 on or before June 19, 1980, then the Commission would be asked to accept this payment and waive the accrued penalty and interest; 2) if Lessee failed to make this payment, then staff would request authority from the Commission to terminate the existing lease. Lessee failed to make the agreed payment on or before June 19, 1980.

CALENDAR ITEM NO. 24. (CONTD)

Staff feels that it is not in the best interest of the State to continue this lease when it appears that no improvement of the site will occur in the foreseeable future and when staff continues to have difficulty in securing the payment of annual rental.

EXHIBIT: A. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. AUTHORIZE THE STAFF AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION IN ORDER TO TERMINATE LEASE PRC 5257.1, AND COLLECT ALL PAST DUE RENTAL INCLUDING INTEREST AND PENALTY.

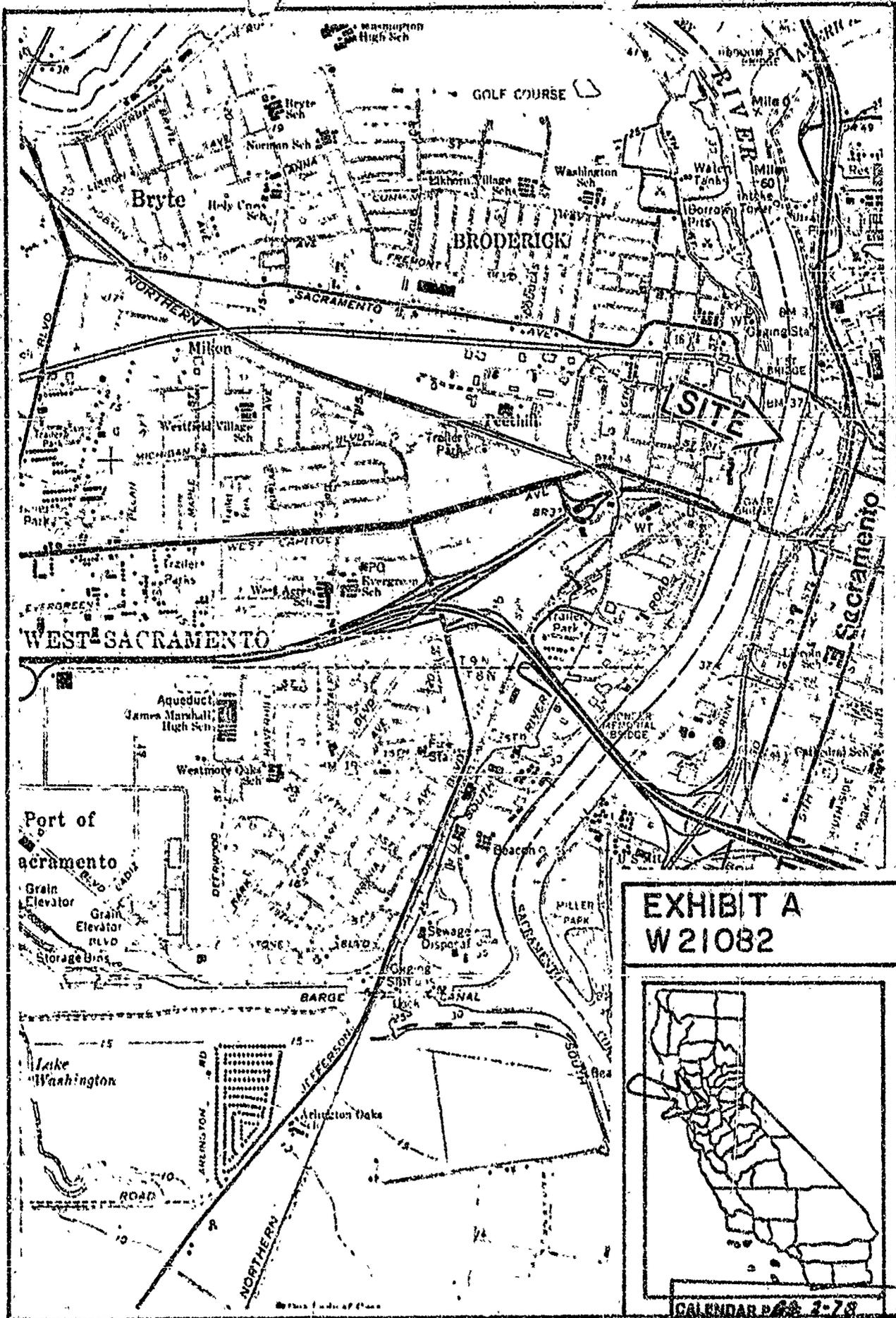


EXHIBIT A
W 21082



CALENDAR PAGE 2-78 84
MINUTE PAGE 132

(Added, 6/23/80)