MINUTE ITEM

This Calendar Item No. 22 was approved as Minute Item 22 by the State Lands Commission by a vote of 3 to 0 at its 4-24-87 meeting.

CALENDAR ITEM

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REAFFIRMATION OF DETERMINATIONS
CONCERNING A LEASE BETWEEN
THE CITY OF LONG BEACH
AND
ANCIENT MARINER - RUSTY PELICAN, INC.
(NOW RUSTY PELICAN RESTAURANTS, INC.)
UNDER SECTION 6702(b) OF THE P.R.C.

At its meeting of August 23, 1979, (Minute Item No. 34) the Commission made the determinations set forth in Section 6702(b) of the P.R.C. with respect to a lease between the City of Long Beach and Ancient Mariner - Rusty Pelican, Inc. The lease covered approximately 9,000 square feet at Long Beach Marina's Basin II parking lot and was let for the purpose of constructing a quality restaurant. The restaurant has been constructed and is currently doing business at the site.

Subsequent to the execution of the lease between the City and Ancient Mariner - Rusty Pelican, Inc., the corporate name of entity was changed to Rusty Pelican Restaurants, Inc.

As part of the lease agreement, the City retained the right to approve subsequent subleases and assignments and any agreements relating to the encumbrancing of the leasehold interest.

The City has now informed the Commission that as part of the permanent financing arrangement, Rusty Pelican Restaurants, Inc. has transferred all of its interest in the lease to Long Beach Pelican Associates, a general partnership, which in turn leased back the improvements to Rusty Pelican Restaurants, Inc. In addition, the lease with the City is being amended to change the legal description to allow Lessee's lender to obtain a policy of title insurance on the leasehold.

The City has also approved a consent to encumbrance of lease between itself, Rusty Pelican Restaurants, Inc. and Bank of America National Trust and Savings Association (the "Encumbrancer"). In this instrument, the City consents to the encumbrancing of the leasehold to secure a note in the principal sum of $675,000. and other obligations set forth in the Deed of Trust recorded therewith.

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Staff has reviewed the legal documents accomplishing amendment of the City's lease, the consent to encumbrancing of lease, the lease assignment between Rusty Pelican Restaurants, Inc., and Long Beach Pelican Associates and the lease-back between the two entities. In general, staff finds the documents to be consistent with Commission policies and procedures and prudent land management practices.

In its consent to the assignment, the City is requiring Rusty Pelican to remain liable for performance under the lease, as amended. The City has also preserved its right to receive minimum and percentage rental under the ground lease, which amounts will be paid directly by Rusty Pelican Restaurants, Inc.

Staff with concurrence of the office of the Attorney General believes the legal documentation accomplishing the above-discussed matters is consistent with the Commission's prior findings on the subject ground lease and is recommending that the Commission find likewise.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL DOCUMENT HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH DOCUMENT IS NOT REQUIRED UNDER THE PROVISIONS OF PRC 21065, 14 CAL. ADM. CODE 15037 AND 15060.

2. REAFFIRM ITS PRIOR FINDINGS MADE AT ITS MEETING ON AUGUST 23, 1979 (MINUTE ITEM NO. 34) RELATIVE TO THE LEASE, AS AMENDED, BETWEEN THE CITY OF LONG BEACH AND RUSTY PELICAN RESTAURANTS, INC., WHICH LEASE HAS BEEN ASSIGNED TO LONG BEACH PELICAN ASSOCIATES WHO IN TURN LEASED BACK THE IMPROVEMENTS TO RUSTY PELICAN RESTAURANTS, INC.