MINUTE ITEM

This Calendar Item No. 35 was approved as Minute Item No. 35 by the State Lands Commission by a vote of 3 to 0 at its 4/27/82 meeting.

CALENDAR ITEM

35

4/22/82
W 2400.135
Fossum

ANNEXATION OF TIDE AND SUBMERGED LANDS
CITY OF DEL MAR

On June 21, 1981, the State Lands Commission approved the propriety of the description of the boundaries of Del Mar's proposed annexation of lands adjacent to its city limits including tide and submerged lands. The City of Del Mar seeks to annex the subject property pursuant to Government Code Sections 3500 et seq. These sections require approval by the State Lands Commission of any annexation by a City of State or trustee owned tide and submerged lands.

The City of Del Mar and San Diego County LAFCO have requested that the State Lands Commission give its approval to the annexation of the lands owned by the State of California and under the jurisdiction of the State Lands Commission. It should be further noted that the proposed annexation would only effect a change in the police power jurisdiction status of these lands from an unincorporated to incorporated area of San Diego County and not effect in any manner property interests or the jurisdiction of the State Lands Commission over public trust lands.

A portion of the lands proposed to be annexed are offshore tide and submerged lands lying below the mean high tide line of the Pacific Ocean. Another portion of the annexation area includes present and historic tide and submerged lands within San Dieguito Lagoon -- the exact location of the boundaries to these lands and extent of State interest has not been determined.

At the July 23, 1981 meeting of the State Lands Commission, the consent of the Commission to the annexation was sought by staff.

During consideration of Calendar Item 28 (attached as Exhibit C), Mr. Robert C. Hight, Chief Counsel, explained that the 22nd Agricultural District (Del Mar Fairgrounds) had opposed this annexation. He further explained there was a disagreement between the City and that agency over the annexation, but he indicated the staff of the State Lands Commission had no objection. However, the Commission was concerned about approving an annexation that had been opposed by another governmental agency which is utilizing the area.

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Based on the above, the Commission then voted 3-0 to object at that time and until staff could further analyze the position of the 22nd Agricultural District and clarify the procedural mechanics of the annexation.

Staff of the Commission has since discussed the matter with the Agricultural District and the City of Del Mar and based on the information obtained in those communications and documents submitted regarding the dispute (Exhibit D) believes that the basis for the objection has been adequately dealt with.

The City has requested reconsideration without waiver of any procedural rights it may have.

Staff therefore suggests revocation of the July 23, 1981 objection, waiver of any procedural error, and approval of the annexation to the City of Del Mar of all land and interests in lands under the jurisdiction of the State Lands Commission within the proposed annexation area.

AB 884: N/A.

EXHIBITS:
A. Land Description.
B. Location Map.
C. Calendar and Minute Item 28, July 23, 1981.
D. Supporting Documents.

IT IS RECOMMENDED THAT THE COMMISSION:

1. REVOKE ITS JULY 23, 1981 OBJECTION, WAIVE ANY POSSIBLE PROCEDURAL ERROR, AND APPROVE THE ANNEXATION OF HISTORIC AND PRESENT, FILLED AND UNFILLED, TIDE AND SUBMERGED LANDS OR INTERESTS THEREIN UNDER THE JURISDICTION AND OWNERSHIP OF THE STATE LANDS COMMISSION, DESCRIBED IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, AND AUTHORIZE STAFF TO SEND APPROPRIATE WRITTEN NOTICE TO THE CITY OF DEL MAR AND THE LOCAL AGENCY FORMATION COMMISSION OF SAN DIEGO COUNTY.

EXHIBIT "A"

LAND DESCRIPTION W 2400.135

All that portion of Section 2, T14S, R4W, SBM, in the County of San Diego, State of California, according to United States Government Survey, and that portion of adjacent tidelands lying within the following described boundaries:

BEGINNING at the southeast corner of said Section 2;

1. Thence northerly along the easterly line of said Section to the northerly line of Via De La Valle as it existed on May 22, 1981, and a portion of which is shown as Road Survey No. 443, map on file in the County Engineer's Office of said County;

2. Thence westerly along the northerly line of said Via De La Valle, of varying widths, to the westerly line of the 200.00 foot Atchison Topeka and Santa Fe Railroad right of way;

3. Thence westerly in a straight line to a point on the northerly line of Border Avenue, Road Survey No. 1589, on file in the County Engineer's Office of said County, being N 89° 49' 32" E 125.87 feet from the most southerly southeast corner of Lot 1 of Del Mar Beach Club East according to Map No. 7402, records of said County;

4. Thence westerly along said northerly line of Border Avenue and the prolongation thereof to the westerly line of Sierra Avenue being also the easterly line of Lot 1 of Del Mar Beach Club East according to Map No. 6838, records of said County;

5. Thence southerly along said easterly line of Lot 1 to the southerly line of said Map No. 6838 being also the northerly line of the southerly 660.00 feet of Lot 5 of said Section 2;

6. Thence S 89° 49' 32" W 562.32 feet along said south line to the mean high tide line as shown on said Map No. 6838;

7. Thence S 89° 49' 32" W three geographical miles or more to the westerly boundary of the State of California;

8. Thence southerly along said boundary to an intersection with the westerly prolongation of the south line of said Section 2; and

9. Thence easterly along said westerly prolongation and along said south line to the POINT OF BEGINNING.

END OF DESCRIPTION

REVISED APRIL 9, 1982 BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR.

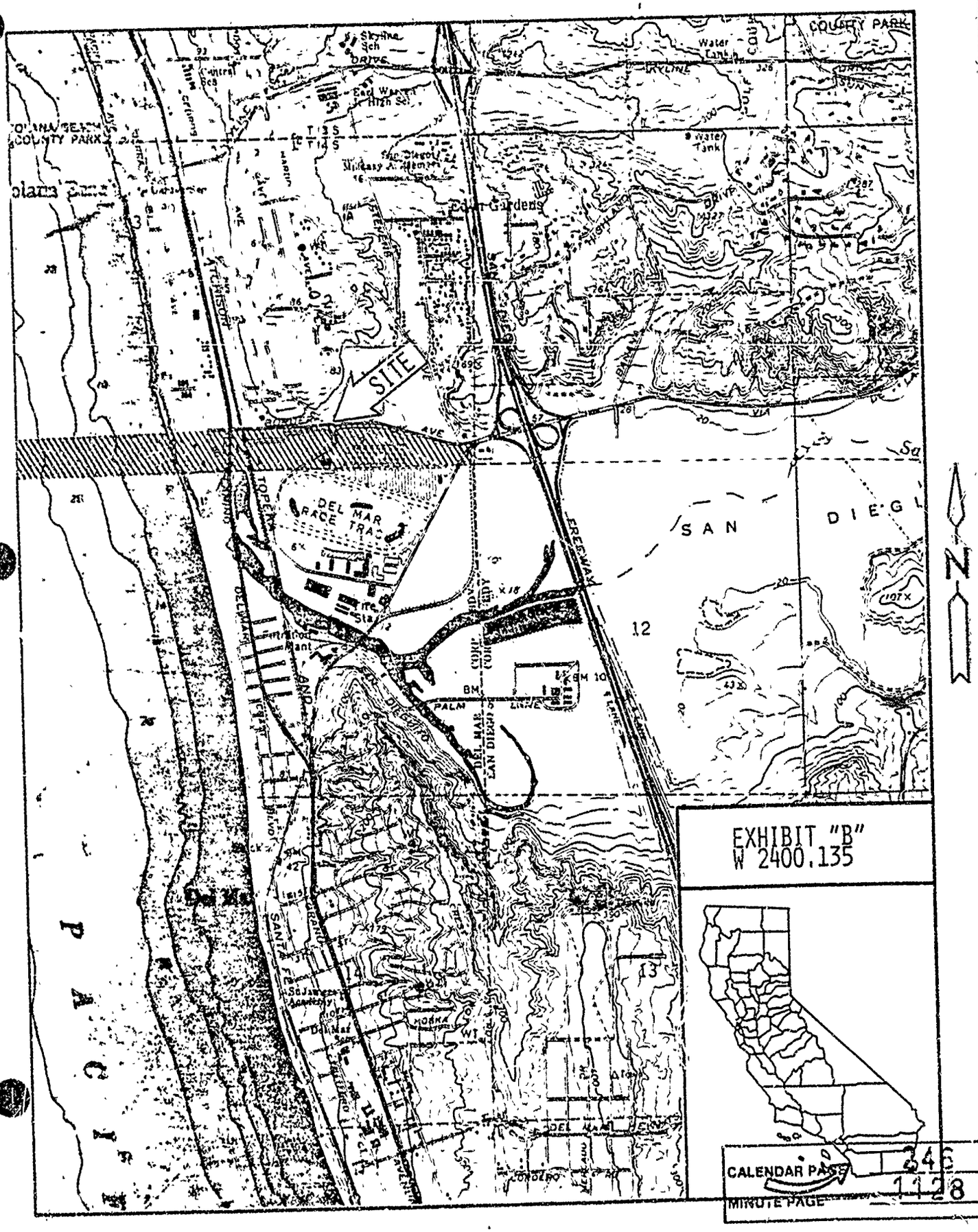

EXHIBIT "B"
W 2400.135

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MINUTE ITEM

This Calendar Item No. 28 was approved as Minute Item No 28 by the State Lands Commission by a vote of 3 to 0 at its 7-23-81 meeting.

EXHIBIT (C)

MINUTE ITEM

7/23/81
Fossum
W 2400 135

28. PROPOSED ANNEXATION/CITY OF DEL MAR

During consideration of Calendar Item 28 attached, Mr. Robert C. Hight, Chief Counsel, explained that the Twenty-Second Agricultural District (Del Mar Fairgrounds) has opposed this annexation. He further explained there is disagreement between the City and other public agencies over this annexation, but since the area to be annexed is relatively small, he indicated the staff has no objection. However, the Commission was concerned about approving an annexation that has been opposed by another governmental agency which is utilizing the area.

Based on the above, the Commission voted 3-0 for the following resolution:

THE COMMISSION:

1. OBJECTS PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 35009 TO THE APPROVAL OF THE ANNEXATION OF TIDE AND SUBMERGED LANDS OWNED BY THE STATE AND UNDER THE JURISDICTION OF THE STATE LANDS COMMISSION, DESCRIBED IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, AND AUTHORIZES STAFF TO SEND A WRITTEN NOTICE TO THE CITY OF DEL MAR AND THE LOCAL AGENCY FORMATION COMMISSION OF SAN DIEGO COUNTY.

Attachment: Calendar Item 28

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CALENDAR ITEM

28

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CONSENT OF STATE LANDS COMMISSION
AS LANDOWNER TO THE PROPOSED ANNEXATION
TO THE CITY OF DEL MAR

On June 21, 1981, the State Lands Commission approved the boundaries of Del Mar's proposed annexation of lands adjacent to its city limits including tide and submerged lands. The City of Del Mar wishes to annex the subject property pursuant to Government Code Sections 3500 et seq. These sections require approval by the State Lands Commission of any annexation by a City of state or trustee owned tide and submerged lands.

The City of Del Mar and San Diego County LAFCO have requested that the State Lands Commission give its approval pursuant to California Government Code Section 35009, supporting the annexation of the lands owned by the State of California under the jurisdiction of the State Lands Commission. It should be further noted that the proposed annexation would only affect a change in the police power jurisdiction status of these lands from an unincorporated to incorporated area of San Diego County and not effect in any manner property interests or the jurisdiction of the State Lands Commission over public trust lands.

A portion of the lands proposed to be annexed are offshore tide and submerged lands lying below the mean high tide line of the Pacific Ocean. Another portion of the annexation area includes present and historic tide and submerged lands within San Dieguito Lagoon -- the exact location of the boundaries to these lands and extent of State interest has not been determined.

Therefore, staff suggests approval of the annexation of all lands and interests in lands under the jurisdiction of the State Lands Commission and within the proposed annexation areas be approved for annexation to the City of Del Mar.

AB 884: N/A.

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

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IT IS RECOMMENDED THAT THE COMMISSION:

1. GIVE CONSENT PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 35009, TO THE APPROVAL OF THE ANNEXATION OF TIDE AND SUBMERGED LANDS OWNED BY THE STATE AND UNDER THE JURISDICTION OF THE STATE LANDS COMMISSION, DESCRIBED IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, AND AUTHORIZE STAFF TO SEND A WRITTEN NOTICE TO THE CITY OF DEL MAR AND THE LOCAL AGENCY FORMATION COMMISSION OF SAN DIEGO COUNTY.

Southern California

Exposition

March 18, 1982

San Diego Local Agency
Formation Commission
1600 Pacific Highway
San Diego, Ca. 92101

Attn: William Davis

RE: City of Del Mar
Via de la Valle

Dear Sir:

The 22nd District Agricultural Association wishes to withdraw its objection to the Via de la Valle Annexation.

The action is taken by the Executive Committee of the Association.

Sincerely,

R.R. Richardson
President

RRR:nt
cc: State Lands Commission
City of Del Mar

MAR 22 1982

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Del Mar, California 92014 • Telephone Del Mar 755-1161, San Diego 297-0338

RESOLUTION NO. 82-1

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR REGARDING THE PROPOSED MULTI-MODAL TRANSIT FACILITY.

WHEREAS, the County of San Diego proposes to locate a multi-modal transit facility on property owned by the 22nd Agricultural District, a State agency; and

WHEREAS, the proposed multi-modal facility is to be supported by Federal and State monies and is proposed to accommodate passengers in intrastate and interstate commerce in rail, bus and other modes of transportation; and

WHEREAS, the City Council of the City of Del Mar is on record in support of the concept of a multi-modal facility, but in opposition to the location of such a facility at the proposed site on the 22nd Agricultural District property; and

WHEREAS, the City Attorney has advised the City Council that the City of Del Mar has no jurisdiction or permit authority over the multi-modal facility because it is a county project utilizing Federal and State monies to be located on State owned property providing services to passengers in intrastate and interstate commerce;

NOW THEREFORE, the City Council of the City of Del Mar hereby resolves as follows:

1. The City Council acknowledges that it has no permit authority over the proposed multi-modal transit facility.

2. If and when the multi-modal facility receives all necessary approvals from Federal, State and county agencies with jurisdiction by law, the City of Del Mar will provide sewer and water service as necessary, consistent with City and State law, the same as it would to any other project or landowner in the City's jurisdiction.

PASSED AND ADOPTED THIS 4th day of January, 1982 by the following vote:

AYES: Councilmembers Roe, Hoover, Shapiro; Mayor Terrell

NOES: None

ABSENT: Councilwoman Felerabend

ABSTAIN: None

Louis M. Terrell, MAYOR

ATTEST:

Mary Slater, CITY CLERK

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EXIBIT "D"

city of del mar memorandum

To: City Council Date: January 11, 1982

From: City Attorney

Subject: City Jurisdiction Over Multi-Modal Transit Facility

In the context of the City's recently completed Via de la Valle annexation, you have asked whether or not the City of Del Mar will have any permit authority or jurisdiction over the Multi-Modal Transit Facility proposed to be located in the annexation area. As currently proposed, the Multi-Modal Facility would be located on property owned by the 22nd Agricultural District Association, a State agency, and would provide transportation services to passengers in intra-state and inter-state commerce. The County would be the "lead agency" and the project would be built primarily with State and Federal funds.

ISSUE

Does the City of Del Mar have permit authority over the Multi-Modal Transit Facility?

CONCLUSION

No. The County of San Diego as lead agency, the 22nd Agricultural District as a State agency, and its lessees are exempt from Del Mar's local building and zoning regulations.

DISCUSSION

It is a general rule of law, based on the concept of federalism, that neither the Federal government nor agencies of the State are subject to local building and zoning regulations. See, generally, Longtin, California Land Use Regulations, §2.101 et seq. This is especially true when the Federal or State agency is conducting a sovereign activity. Supra, §2.103. In the case of the

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Multi-Modal Facility, it appears beyond dispute that the project is not a matter of "local concern" as opposed to a State sovereign activity, in that the project proposes to service passengers in intra-state and inter-state commerce.

There can be little doubt that the 22nd Agricultural District is a State agency. See, Agricultural Code §§3953, 3962. It has been specifically determined by the California Attorney General in a published opinion that a District Agricultural Association is not subject to local building and zoning regulations, and that this exemption applies to lessees of the Association as well. 56 Atty. Ops. 210 (1973).

Finally, it is the general rule that cities and counties are mutually exempt from each other's zoning and building regulations relative to property that one such entity may own within the territory of the other. See, County of Los Angeles v. City of Los Angeles (1963) 212 Cal. App.2d 160; County of San Mateo v. Bartoli (1960) 8[illegible] Cal. App.2d 422; 40 Cal. Atty. Ops. 243 (1962).

Because the Agricultural District and its lessees are exempt from the City Building and Zoning Regulations, and because the County is similarly exempt, it is apparent that the City of Del Mar has no permit authority over the proposed Multi-Modal Facility.

If I can provide you with more information regarding this issue, please do not hesitate to call upon me.

D. Dwight Worden
City Attorney

DDW/dth

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