

1 a Fair Employment Practice Act in California for two years, I
2 gather in some cases some agencies of the State Government have
3 not been fully aware of that act nor implemented its full in-
4 tent. I have heard no complaint about the State Lands Commis-
5 sion, but nevertheless I thought it might be well to have a
6 resolution and have it on the record for all areas that might
7 be touched by this resolution. For that reason I propose the
8 following resolution:

9 The policy of the State Lands Commission has been and
10 is nondiscrimination. Every employee in a supervisory or hir-
11 ing capacity is expected to hire and upgrade employees on the
12 basis of merit, without regard to race, religion, national
13 origin, ancestry, age, or sex.

14 There are to be no exceptions under the policy.

15 Nondiscriminatory employment has been found to be not
16 only fair and decent, but sound business practice. Every posi-
17 tion in the State Lands Commission is to be filled by the best
18 candidate, whether or not persons of his age, race, etc. have
19 ever held the position in the past.

20 It is the responsibility of every supervisor to make
21 the intent of this policy truly operative with respect to all
22 positions under his supervision.

23 MR. HORTIG: Mr. Chairman, a question, please. Mr.
24 Cranston, you are, of course, aware of the fact that there are
25 age limitations on classifications specified by the State
26 Personnel Board, adherence to which certainly would not be

1 considered discrimination in the manner in which you have
2 phrased this.

3 MR. LUEVANO: Does the legislation that was passed
4 on this last question of age affect those particular limi-
5 tations?

6 MR. HORTIG: In some instances. In some instances
7 they may ultimately result in revision of Personnel Board
8 regulations.

9 MR. LUEVANO: Are they exploring that matter now?

10 MR. HORTIG: I must assume they are.

11 MR. CRANSTON: It might be appropriate for us to
12 suggest they do so if they are not.

13 GOV. ANDERSON: Do you second this?

14 MR. LUEVANO: You have moved?

15 MR. CRANSTON: Yes.

16 MR. LUEVANO: If you haven't I will.

17 GOV. ANDERSON: It has been moved and seconded that
18 this resolution be made a part of the policy of the State Lands
19 Commission. It is unanimous.

20 MR. CRANSTON: In implementation of this, this is a
21 suggestion: The Fair Employment Practice policy of the State
22 Lands Commission is set forth in the attached resolution
23 adopted by the Commission and in the enclosed bulletin of the
24 Fair Employment Practices Commission. The resolution should
25 be distributed to all of your employees. The bulletin should
26 be posted in a conspicuous, well lighted place in each office

1 of your Division frequented by applicants and employees.
 2 Extra copies of the bulletin are available from the Executive
 3 Officer of the State Lands Commission. The policy of non-
 4 discrimination and content of the bulletin should be reviewed
 5 with your supervisors, who, in turn, should review them with
 6 their employees to insure universal understanding.

7 MR. HORTIG: We will comply.

8 GOV. ANDERSON: Carried unanimously. I have a
 9 letter that I would like to have made a part of the record
 10 and it is relative to our drilling beyond the three-mile limit,
 11 and it is a letter to the Honorable Stewart L. Udall, Secretary
 12 of the Interior, Office of the Secretary, Washington, D.C.:

13 "Dear Mr. Secretary:

14 As chairman of the State Lands Commission
 15 of the State of California, I want to commend you
 16 for your action, as announced on November 14, 1961,
 17 appointing a four-man Departmental Committee
 18 headed by Undersecretary James E. Carr to work
 19 with the Department of Justice and the State of
 20 California to reach an agreement between Cali-
 21 fornia and the Federal Government concerning
 22 offshore drilling for oil on submerged lands
 23 along the California coast.

24 The other two members of the California
 25 State Lands Commission, State Controller Alan
 26 Cranston and Director of Finance Hale Champion,
 join with me in expressing the unanimous desire
 of this Commission to cooperate in every way
 possible in expediting the work of your committee
 headed by Undersecretary Carr in seeking ways to
 begin offshore drilling for oil on submerged lands
 along the California coast.

The agreement between yourself and California's
 Attorney General Stanley Mosk to appoint a joint
 committee from your staffs to study the advisability
 of an agreement to permit drilling to proceed with-
 out objection is an important step forward.

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" However, while this joint Federal and State study of the legal aspects of the situation is being made, the California State Lands Commission feels that many technical and policy studies should be undertaken concurrently. I am, therefore, writing to both Undersecretary Carr and yourself to request that the Departmental Committee headed by Mr. Carr meet with the California State Lands Commission at the earliest convenient date.

I discussed this matter personally with Mr. Carr in Los Angeles last week, and I believe we are in full agreement that such a meeting could have fruitful results. By early action in exploring the policies and agreements which must eventually be agreed upon by the Department of the Interior and the State of California, we hope to advance the time table for developing vast potential oil resources now going unused.

We would, of course, be pleased if Mr. Carr's committee would find it convenient to meet with us in California in the very near future.

Very truly yours "

I'd like to send that to Mr. Udall and I'd like to have a motion, if possible, approving the content of the letter.

MR. CRANSTON: I so move.

MR. LUEVANO: Second it.

GOV. ANDERSON: Moved and seconded, carried unanimously. I think that's the last item outside of the next meeting, which I believe we agreed on was December 21st, 10 a.m. at Sacramento.

MR. CRANSTON: December 21st?

MR. LUEVANO: 10 a.m.

GOV. ANDERSON: Wasn't that what we had agreed upon, Mr. Hortlg?

1 MR. HORTIG: This was discussed as a potential date.
2 There had not been a determination and that's the reason we
3 asked for a determination.

4 GOV. ANDERSON: I don't know why we made it ten a.m.
5 Is nine a.m. all right for the rest of you?

6 MR. HORTIG: Inasmuch as you are again proposing to
7 hold it in Sacramento, I am therefore proposing that for the
8 people coming up from Los Angeles they can make it with a
9 ten a.m. arrival flight -- which they cannot do at a nine
10 o'clock meeting.

11 GOVERNOR ANDERSON: Anything else?

12 MR. HORTIG: I would like to mention, Mr. Chairman --
13 it is not on the agenda, but the Commission did receive this
14 morning two letters of protest to a proposed annexation, assum-
15 edly of tide and submerged lands and one telegram from William
16 D. Moore of O'Melveny and Meyers on behalf of Capistrano Beach
17 Club Company, Capistrano Beach, objecting to a proposal by the
18 City of San Clemente to annex tidelands north and west of that
19 city; and, similarly, a telegram from John H. Dawson, City
20 Attorney of San Juan Capistrano, protesting to an attempted
21 annexation of Capistrano from the three-mile limit to Dana Point.

22 I bring this to the Commission's attention because
23 they were received this morning, but there is no prospective
24 annexation calendar item, nor is there any uncompleted annexa-
25 tion.

26 MR. PENNICK: I also came up to bother the Commission

1 from San Clemente on this question and if I could have a few
2 moments.....

3 GOV. ANDERSON: Now, we do not have an item before
4 us.

5 MR. PINNICK: I know you don't have. There are cer-
6 tain questions we wanted to put before the Commission and get
7 its thinking on the matter. I don't think it would take very
8 long if I could discuss it with you for a moment.

9 GOV. ANDERSON: Who do you represent?

10 MR. PINNICK: Wallace Pinnick. I am ^{an} attorney in
11 San Clemente and represent the Capistrano Bay Improvement
12 District. It is a group of homes on the shore, a few hundred
13 of them. I also have authority from Mr. Dawson to represent
14 his city. He is the City Attorney of San Juan Capistrano, a
15 beach community. I also have authorization from Louis Viereck
16 who is attorney for Harvey Company, who own quite a bit of
17 shoreline.

18 The problem is this: San Clemente is a city that
19 has a frontage on the ocean of about two and a half miles,
20 maybe not quite that much -- I wish I had time to get diagrams.
21 They are asking to annex not only the area, the land on the
22 front and to the three-mile limit, they are proposing all the
23 way to Dana Point. That area outside of the City limits of
24 San Clemente is the ocean frontage of the people that I repre-
25 sent. As you know -- you know the Code better than I do --
26 the only ones that can object to an uninhabited annexation are

1 the owners of property in that proposed area and there aren't
 2 any owners except the State -- or at least we haven't been able
 3 to discover any up to this time. We have in our group people
 4 who own piers that extend out into the ocean, but they are
 5 taxed on the adjacent shoreline. We have no standing in court.

6 GOV. ANDERSON: Is this annexation before your Board
 7 of Supervisors now?

8 MR. PINNICK: Under the provisions of the uninhabited
 9 portions of the act, it does not go before the Supervisors.
 10 We wish it did. That is our problem. We have nobody but the
 11 City of San Clemente to protest to and, as I say, under the
 12 provisions of the statutes we have no standing to protest even
 13 to them.

14 GOV. ANDERSON: Can I ask a question of our repre-
 15 sentative of the Attorney General? I thought even these
 16 matters came up before the Board of Supervisors.

17 MR. JOSEPH: That's not my impression.

18 GOV. ANDERSON: Wasn't the last one that we had in
 19 Santa Barbara -- this was the city

20 MR. HORTIG: County Boundary Commission.

21 MR. PINNICK: San Clemente has gone through the
 22 Boundary Commission, which has supervisors on it.

23 GOV. ANDERSON: So, in fact, you have had that
 24 hearing?

25 MR. PINNICK: That hearing; but, of course, the
 26 Boundary Commission's authorization is only to determine

1 whether the boundaries are correctly outlined. They have no
2 authority to say "No, you can't annex this territory." It is
3 an unusual section of the law in that when you go after sub-
4 merged lands or tidelands there are no property owners and the
5 only one that determines whether the annexation can go through
6 or not is the City Council of the city seeking the annexation.

7 Now, that's our problem. We want to induce the Lands
8 Commission to do as they did in the Santa Barbara case and pro-
9 test the annexation of the lands by San Clemente; and, mind
10 you, we do not wish this protest to be made as to the area of
11 tidelands adjacent to the City of San Clemente. We believe it
12 is right and proper they should have those; but those that ex-
13 tend beyond the city limits and go to the other communities,
14 we do not believe the State Lands Commission should allow that
15 without some protest.

16 One last question: The reason that we came here so
17 precipitately and perhaps so unprepared is because of this
18 unclarity in the law. I talked to Mr. Hortig's office, Mr.
19 Blacker there, and several people in other agencies. They
20 admit there are these unusual provisions. You have just set
21 your next meeting for December 21st. San Clemente set the
22 protest hearing for December 20th. This is going to be an
23 accomplished fact on December 20th.

24 MR. HORTIG: Except possibly -- and in deference to
25 my legal colleague across the table, I'll practice law without
26 a license -- administratively, at least, in the past we have

1 been informed by the Office of the Attorney General, and in
2 view of the modifications to the annexation statutes relating
3 particularly to proposed annexation of tide and submerged lands
4 under the jurisdiction of the State Lands Commission, that such
5 annexation cannot be effected until there has been a protest
6 hearing held based on consideration of the protests, if any --
7 based on the value of the tide and submerged lands proposed
8 to be annexed; which statute also requires that the value of
9 such tide and submerged lands must be appraised by the State
10 Lands Commission and reported to the proposed annexing author-
11 ity on application of the proposed annexing authority.

12 We have had no application from the City of San
13 Clemente. The City of San Clemente cannot, it would appear,
14 hold a protest hearing at which they can consider the appraised
15 value of the tide and submerged lands which must be made by
16 the State Lands Commission, simply because the State Lands Com-
17 mission hasn't appraised it, simply because they have not been
18 asked to appraise it.

19 MR. LUEVANO: So our rights are not affected?

20 MR. HORTIG: This annexation protest hearing cannot
21 be held without an appraisal by the State Lands Commission.

22 MR. JOSEPH: I am not familiar with the proceeding.
23 I know there is an appraisal provision.

24 MR. PINNICK: I have done quite a bit of law on this
25 and I know there must be an agreement on the value of the
26 annexed land. If there is not, the annexing body must suspend

1 its procedures and file in court as to a declaration of value,
2 However, that is merely an administrative thing. I don't see
3 any area of disagreement. If this Commission puts a value on
4 these tidelands for tax purposes, it is probably going to be
5 zero. Certainly the City of San Clemente is not going to dis-
6 agree with you. Furthermore, the time limit is not set out in
7 the law. It does not say "before the protest," I beg to differ
8 with you there. I wish it did -- it could not follow the pro-
9 test hearing. They have already set this protest hearing.
10 Their attorney has done it without requesting the evaluation
11 procedure. It is set for December 20th. This Commission does
12 have the right to protest such annexation, but the law does not
13 say what steps it should take in protesting. Does it make an
14 affirmative protest? In the Santa Barbara annexation, I under-
15 stand this Commission did take an affirmative stand and did
16 protest the annexation; but the law doesn't say how it must
17 protest.

18 They are going to send up their resolution after
19 December 20th and the necessary papers, and file them with the
20 Secretary of State; and unless they get into a disagreement on
21 the valuation -- we have a pier out there we are hoping will
22 give us some standing in court, but if we could have the Lands
23 Commission come in and help determine it, it would help us.

24 GOV. ANDERSON: Why can't you look into this? Do
25 you have to wait until you are officially notified?

26 MR. PINNICK: That's another point, Governor Anderson.

1 There is no way they are supposed to notify you -- that's not
2 required. The only thing that's required is that they agree
3 with this Commission on the annexation -- no necessity that
4 they advise you of the annexation.

5 MR. HORTIG: First, patently, Governor, every other
6 annexation of submerged lands and tidelands considered by the
7 Commission has been pursuant to notice. Certainly, if not
8 spelled out in the law, there are adequate procedural precedents
9 established by all other communities who have heretofore annexed
10 tide and submerged lands since the Government Code has been in
11 the stage it now is; this on the basis of at least all other
12 attorneys' interpretation of what the statutes require, in-
13 cluding the Office of the Attorney General.

14 On directive of the Commission, definitely the staff
15 could undertake an immediate investigation. My suggestion is
16 that ...

17 GOV. ANDERSON: Check that portion of the law, too.

18 MR. HORTIG: I wouldn't want the Commission to give
19 us, in effect, a blank check; but suggest to the Commission
20 that if staff investigation in conjunction with the Attorney
21 General's Office determines that there are unresolved questions
22 and that there are areas in which the Lands Commission might
23 and properly should take action if they had been properly
24 notified and they have not been before the closing protest date
25 as outlined by Mr. Pinnick, that the staff be authorized to
26 transmit a letter to the City Council of the City of San

1 Clemente, stating the Lands Commission's position to be desir-
2 ous of having an extension, at least, of this hearing in order
3 that the problems on which the Lands Commission must make find-
4 ings may be properly and expeditiously resolved before the City
5 closes the door technically on this situation. I wouldn't be-
6 lieve they could do it validly, but I would say it would be
7 very much simpler to keep the door open while the problems are
8 unresolved, rather than wait until it is an accomplished fact,
9 if this gentleman's legal analysis is correct.

10 MR. PINNICK: I didn't trust my own view on this
11 opportunity to protest to this body. I talked to Mr. Blacker
12 in your Los Angeles office. I discussed this with Mr. Goss,
13 who I understand is now a judge and who is probably less
14 interested.

15 MR. CRANSTON: That will be stricken. He will have
16 interest until he becomes a judge.

17 MR. PINNICK: I congratulate him. I have never met
18 him. I have searched the law and we don't find provision for
19 notice. Since this thing is set for December 20th, evidently
20 the City of San Clemente doesn't believe after their research
21 that this is required.

22 MR. CRANSTON: Do you feel what Mr. Hortig proposes
23 would give you an opportunity to protect your interests?

24 MR. PINNICK: Anything that Mr. Hortig proposed would
25 probably be the correct approach.

26 GOV. ANDERSON: You would ask an extension of time

1 from the City so that proper procedural steps could be taken?

2 MR. HORTIG: That's correct.

3 GOV. ANDERSON: If they say they are going ahead
4 with their annexation proceedings on the 20th, that we would
5 then make a protest at that time?

6 MR. PINNICK: I really would appreciate it if it
7 could go that far.

8 MR. HORTIG: Protest not on the annexation, but pro-
9 test as to closing the annexation without having given the
10 necessary notice and brought the full matter for consideration
11 to the Commission, to the extent the Commission is authorized
12 to consider it. If there were then an arbitrary closing of
13 the hearing, nevertheless, then the staff recommendation would
14 be to have the Attorney General seek to attack the proceedings
15 by quo warranto proceedings -- something we have had to employ
16 successfully in the past where earlier municipalities, before
17 the Code was as detailed as it is, did such things, proceeded
18 without notifying anyone on the theory if they didn't tell
19 them they couldn't protest and therefore they had a valid
20 annexation. The courts have explained to these municipalities
21 that this is not the case -- that they cannot, by simply for-
22 getting to tell the Lands Commission or whoever is concerned,
23 avoid protest by this means. This is the basic defect in this
24 thing.

25 MR. LUEVANO: Your recommendation is basically
26 procedural -- It doesn't go to the question of the annexation?

1 MR. HORTIG: That's right.

2 MR. PINNICK: One other question: The Code provides
3 that if more than fifty percent of the owners of privately
4 owned land in the uninhabited area protest, then the annexation
5 must be dismissed. Of course, as I have explained, we have
6 found no privately owned land in the submerged land area. The
7 Code goes on to say that if more than fifty percent of the
8 publicly owned land - - if there is a protest by the proper
9 body as to more than fifty percent of the publicly owned land,
10 then they must dismiss the proceedings. I believe that it
11 either implies or then states if no such protests are received
12 at the time when notice is filed for the protests that the
13 annexation is complete and all they have to do is file their
14 final documents with the Secretary of State. That's why I
15 would very much like, if they will not set over this December
16 20th meeting to give this body time to study - - it's like
17 San Francisco calling all the areas south of the city their
18 tidelands - - if they won't hold up, I would ask this body to
19 put in a protest. Protests can be withdrawn, if at a later
20 time you determine you have no protest. You have here oil
21 rights, marine rights. It's a phenomenal thing. One of the
22 Boundary Commissioners said this is immoral. Maybe it isn't -
23 it may be legal and immoral too.

24 MR. CRANSTON: Mr. Chairman, I move the decision of
25 the Lands Commission be that which was stated by Frank Hortig,
26 namely that we investigate the matter; that we seek a delay to

1 explore it; if we find we can't get that delay, that we then
2 submit a formal protest to give us time to explore it.

3 MR. LUEVANO: I second it. May I ask a question?
4 In filing a protest, must you give a reason for the protest?

5 MR. HORTIG: This, of course, would be developed in
6 conjunction with the Office of the Attorney General. In view
7 of the fact that apparently -- this I have derived from Mr.
8 Pinnick's statements -- the only area proposed to be annexed
9 is tide and submerged lands, that there are no privately owned
10 lands and that fifty percent of the value protesting with
11 respect to the tide and submerged lands is sufficient to stop
12 the proceedings, in this case the protest of the Lands Commis-
13 sion would be as to one hundred percent of the value, whatever
14 the dollar value may be, and this couldn't help but be effective.

15 MR. PINNICK: You don't have to give reasons, as I
16 understand it. You simply say you don't want to be under the
17 administrative proceedings of that city.

18 GOV. ANDERSON: Moved, seconded, carried unanimously.
19 Any other items before the Commission? (No response) If not,
20 we will adjourn until our next meeting December 21st, ten a.m.

21 ADJOURNED 10:25 A.M.
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CERTIFICATE OF REPORTER

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I, LOUISE H. LILLICO, reporter for the Office of Administrative Procedure, hereby certify that the foregoing thirty-five pages contain a full, true and correct transcript of the shorthand notes taken by me in the meeting of the STATE LANDS COMMISSION at Sacramento, California, on November 22, 1961.

Dated: Sacramento, California, November 29, 1961.

Louise H. Lillico