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MEETING
STATE LANDS COMMISSION

DEPARTMENT OF CONSUMER AFFAIRS
ROOM 102
1020 N STREET
SACRAMENTO, CALIFORNIA

ORIGINAL

TUESDAY, APRIL 7, 1981

10:05 A.M.

CATHLEEN SLOCUM, C.S.R.
license No. 2822

MEMBERS PRESENT

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Kenneth Cory, Chairperson, State Controller

Susanne Morgan, representing Mary Ann Graves,
Director of Finance, Commissioner

David Ackerman, representing Mike Curb, Lieutenant
Governor, Commissioner

STAFF PRESENT

William Northrop, Executive Officer

R. S. Golden

James Trout

Gary Horn

Robert Hight

Diane Jones, Secretary

Mr. Thompson

ALSO PRESENT

N. Gregory Taylor

Sue Wylie, Deputy Attorney General

Jan Stevens, Deputy Attorney General

I N D E X

	<u>Page</u>
1	
2	
3	Proceedings 1
4	Approval of Minutes 1
5	Executive Officer Report 1
6	Solar Pond Project 1
7	Severance Tax 2
8	Staff Report on State Coastal Commission 4
9	Consent Calendar, Items C1 through C15, excluding C15-8 7
10	C15-8 7
11	Agenda Item 16 8
12	Agenda Item 17 18
13	Agenda Item 18 19
14	Agenda Item 19 22
15	Agenda Item 20 51
16	Agenda Item 21 52
17	Agenda Item 22 (off calendar)
18	Agenda Item 23 53
19	Agenda Item 24 53
20	Agenda Item 25 53
21	Agenda Item 26 56
22	Agenda Item 27 57
23	Agenda Item 28 57
24	Agenda Item 29 57
25	Agenda Item 30 58

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	<u>Page</u>
1 Index (continued)	
2 Agenda Item 31	58
3 Agenda Item 32	67
4 Agenda Item 33	67
5 Agenda Item 34	67
6 Agenda Item 35	68
7 Agenda Item 36	77
8 Agenda Item 37	80
9 Agenda Item 38	97
10 Legislative Bills	98
11 Agenda Item 39 -- Closed Executive Session	100
12 Adjournment	100
13 Certificate of Reporter	101
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

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P R O C E E D I N G S

---OOO---

CHAIRPERSON CORY: Call the meeting to order.

Are there any questions or additions to the minutes of the meetings of March 5th and March 18th?

Without objection, they will be adopted as presented.

Executive Officer, do you have a report?

EXECUTIVE OFFICER NORTHRUP: Yes, Mr. Chairman, two items. One is the Solar Pond Project --

CHAIRPERSON CORY: Move with some alacrity because we have two legislators waiting for the first item on the calendar, and I'd like to get through -- three. Wow, somebody came in without me knowing it. Okay. We'd like to get to that and we'd like to get through the formalities rather quickly if we can.

EXECUTIVE OFFICER NORTHRUP: Mr. Chairman and Members, the first item is the Solar Pond Project. Pursuant to the Commission's November 1980 request, one million dollars was included in the Governor's proposed budget, 1981-82, from the Energy and Resources Fund for a demonstration solar pond power plant at Owens Lake. At the same time, the Commission sought an additional one million dollars for the project from the Federal Government. Since then, three significant events have occurred. The first one

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1 is a comprehensive study of the project at the proposed site,
2 including a flumer cost estimate and schedule have been
3 completed.

4 Secondly, the prospect of Federal Funds for
5 the project no longer exist.

6 Third, a partnership has been formed between the
7 Commission, the Los Angeles Department of Water and Power
8 and Inyo County for the joint development of the project.

9 The feasibility study has found Owens Lake to
10 be a highly attractive site for the project, and has
11 estimated its cost at \$2.7 million. Following the Los
12 Angeles Department Water and Power's commitment to fund
13 \$750,000 of the project and Inyo County's agreement to
14 provide an access road and visitor overlook to it, the
15 request for the State's contribution was amended to \$2 million,
16 eliminating the need for federal funds. We have been
17 informed by the Department of Finance that because of
18 cancelled ERF projects, this new request has been
19 accommodated.

20 The second item, Mr. Chairman and Members,
21 is the Severance Tax. The Assembly Revenue and Taxation
22 Committee held a hearing last week on AB 19 and ACA 1. This
23 bill and constitutional amendment would substitute a
24 severance tax for the advalorem tax on oil and gas mining
25 rights. The Revenue and Tax Committee is planning to form

1 task force to gather data and State Lands has been asked to
2 participate. So with your permission, we will proceed on
3 that next task force.

4 CHAIRPERSON CORY: Questions from Commissioners?

5 MR. ACKERMAN: Was the additional million
6 dollars from General Fund?

7 EXECUTIVE OFFICER NORTHROP: No. From the
8 ERF Fund, which is a spin-off of the tidelands revenue.

9 CHAIRPERSON CORY: Like a nerf ball.

10 MR. ACKERMAN: Energy Resources Fund?

11 EXECUTIVE OFFICER NORTHROP: Energy Resources
12 Fund, right.

13 CHAIRPERSON CORY: Any other questions from
14 Commissioners?

15 MS. MORGAN: What's the timing on that project?

16 EXECUTIVE OFFICER NORTHROP: We plan on going
17 -- Dan, are you here? The timing on the project?

18 MR. GORFAIN: Completion in 1982 or '83.

19 CHAIRPERSON CORY: If it's funded in the '81-82
20 Budget, it's a quick project.

21 EXECUTIVE OFFICER NORTHROP: We'll get it done
22 way ahead of any other projects.

23 CHAIRPERSON CORY: It should be operational
24 before anyone else can come on line, and that can be used
25 to extrapolate forward the next increment.

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MS. MORGAN: I think we have quite a selling job to do in the Legislature on this project.

CHAIRPERSON CORY: We aren't doing a very good job by making them wait for the item they want.

EXECUTIVE OFFICER NORTHROP: That completes my report, Mr. Chairman.

CHAIRPERSON CORY: Okay. Staff report on the Coastal Commission, Dick.

MR. GOLDEN: Yes, Mr. Chairman. As your representative on the State Coastal agencies, I have a very brief report here.

Mr. Chairman, I'll go through it rapidly.

On the Coastal Commission on June 30, 1981, the Regional Commissions are to be abolished and the State Commission with a revised membership will take over the workload. Numerous bills are in the Legislature to modify policies of the Coastal Act. The State Commission is seeking to arrive at a unified position with the League of California Cities.

Scheduled for major revision are the housing policy and procedural matters related to processing local coastal programs. Under consideration are changes which would remove Coastal Commission original permitting jurisdiction over public trust lands and place it in local government. This proposal may present major problems for

1 State Lands. If enacted into law, we would be required to
2 segregate patented tidelands from ungranted tide and sub-
3 merged lands which would still remain under their original
4 Coastal Commission permitting jurisdiction. The splintering
5 of jurisdiction can also make it much more difficult to
6 review projects which might adversely offset public trust
7 interests such as reviewing projects to ensure they don't
8 encroach upon State-owned sovereign lands.

9 Now, turning to San Francisco Bay Conservation
10 and Development Commission, there are several items of
11 concern to BCDC that are likewise of concern to State Lands.
12 First of these are projects arising from Anza Liquidation
13 Trust in the bay front area of Burlingame. BCDC has a
14 hundred-foot shoreline band jurisdiction which calls for
15 maximum feasible public access. When State Lands entered
16 into a boundary line agreement with Anza in 1969, one
17 condition was the creation of a lagoon opening to the bay.
18 By virtue of this action, BCDC gained shoreline jurisdiction
19 around the lagoon. Up until now as projects sites are
20 sold by Anza to private developers, access requirements are
21 measured against the particular project. Now BCDC is chang-
22 ing the approach and they are now considering the whole
23 project of Anza's as a project and demanding a master plan.
24 However, most of Anza's lands are already sold leaving a
25 high percentage of state leased lands to be incorporated

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1 into the project. Thus our parcels will probably end up
2 as those dedicated to public access while Anza's parcels
3 will carry the development and obtain the revenue benefits.
4 We are working to prevent an unfair treatment of our lands
5 in this instance.

6 Extended public hearings have been held on
7 use designations of lands at Hamilton Air Force Base,
8 if and when they are conveyed out of federal ownership.
9 As you know, we have a suit pending to quiet title to
10 State claimed lands which were taken by the Air Base when
11 it was being expanded. Marin County has been embroiled
12 in extensive controversy relative to uses. The Bay Plan
13 designated the area as airport priority use, which is at
14 odds with Marin County's wishes. BCDC took action last
15 week to retain the airport priority use designation, but
16 to modify it to provide for general aviation use only, no
17 commercial. It was the judgment of the Commission that such
18 use could provide relief of the air space over Oakland and
19 San Francisco so that additional bay fill would be obviated.

20 That closes my report.

21 CHAIRPERSON CORY: Questions from Commissioners.
22 They aren't going to use it for practice strips
23 for 747's in Marin?

24 MR. GOLDEN: No.

25 (Laughter.)

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1 CHAIRPERSON CORY: Okay.

2 The next items that we have are the Consent
3 Calendar items. I would like Item C15 Number 8 -- the staff
4 should not its customary when you're using numerical
5 designations in outline form to use a letter for the
6 subsequent subsections rather than numbers. But I would
7 like that one deleted. Mr. Breuner and I have had some
8 business dealings in the past, so I will absent myself
9 and let you people take that up later.

10 For those people in the audience, if there are
11 any questions, if you do not agree with the proposed staff
12 recommendations of any of the agenda items that have the
13 prefix C before the number, please indicate now what that
14 item is so we can remove it from the Consent Calendar.
15 If there are no objections, all of those items will be
16 taken up in one motion without any further debate. Any other
17 items to be removed? Without objection then, the Consent
18 Calendar will be approved. Those are items C1 through 15,
19 excluding C15-8.

20 MS. MORGAN: I'd like to move approval of C15-8.

21 CHAIRPERSON CORY: You get to chair it and do
22 the whole thing.

23 MR. ACKERMAN: I'd like to know who Mr. Breuner
24 is.

25 MS. MORGAN: He's a local --

26 CHAIRPERSON CORY: He's a legislative --

1 -- yes. I was here when we bought him. That was the
2 transaction.

3 MS. MORGAN: The approval is consistent with all
4 the other actions. It's an existing pier and not a new
5 pier.

6 Okay. That item is approved.

7 CHAIRPERSON CORY: Item 16.

8 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, for
9 the record, C22 is off calendar.

10 CHAIRPERSON CORY: C22?

11 EXECUTIVE OFFICER NORTHROP: 22 is off calendar.

12 CHAIRPERSON CORY: You're going to get those
13 letters in there, aren't you?

14 Item 22 has been taken off calendar.

15 The next item on the agenda is Item 16, the City
16 of Long Beach, landlord, Hyatt Long Beach Corporation,
17 tenant.

18 EXECUTIVE OFFICER NORTHROP: Mr. Chairman,
19 Mr. Gary Horn has worked on this project for staff. I'd like
20 to have him make a presentation to the Commission.

21 MR. HORN: Mr. Chairman, Members of the
22 Commission, the item before you today is a request of the
23 Commission to make some findings on a lease between the City
24 of Long Beach and Long Beach Hyatt Corporation. The findings
25 are required under 6702(b) of the Public Resources Code.

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1 Briefly, the findings are that this lease
 2 comport with the granting statutes of the lands to the City
 3 of Long Beach. The second finding is that the City of Long
 4 Beach has established a trust fund for these monies, and the
 5 monies will only be expended for statewide public purposes
 6 consistent with the trust. The third finding, and the most
 7 important finding, is that the lease is in the best
 8 interest of the state.

9 The staff has been working with the City of
 10 Long Beach for more than a year now on this particular
 11 project. Recognizing that it is a complex project, the
 12 staff retained the consulting firm of Peat, Marwick,
 13 Mitchell who has reviewed the lease, who has reviewed the
 14 financial projections of a number of other consulting firms
 15 that were retained by Hyatt and by the City, and Peat has
 16 concluded that the lease is reasonable. It comports with
 17 existing industry standards for these types of
 18 transactions. Peat, Marwick has also concluded that the
 19 financial projections, the room occupancy rates, occupancy
 20 factors are all reasonably attainable by the City and by
 21 Hyatt and they, therefore, see no reason why the hotel
 22 project cannot be a success.

23 Partially relying on the Peat report, staff has
 24 made its own investigations into the transactions. It's
 25 looked into the leasing rate. It's looked into the uniqueness

1 of the lease back arrangement in this particular transaction
 2 and we find that the City, while it has negotiated a unique
 3 transaction, nevertheless has entered into one that should
 4 make the Tideland Trust Fund for the City of Long Beach a
 5 considerable revenue over the life of the lease. Therefore,
 6 the staff is recommending that the Commission makes the
 7 finding under 6702(b) relative to this particular trans-
 8 action.

9 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, I have
 10 27 letters in support of the project which we responded to
 11 and one letter in objection.

12 CHAIRPERSON CORY: I did not receive a copy of
 13 the letter of objection. What is the objection?

14 MS. MORGAN: Neither did I.

15 EXECUTIVE OFFICER NORTHROP: I'll read the
 16 letter into the record on the objection.

17 It's from Lester M. Denevan. And it says:

18 "Scheduled for public hearing before
 19 the State Lands Commission on April 7, is
 20 a proposed convention hotel of 542 rooms
 21 in Long Beach. Because of the importance
 22 of the project, and because of legal and
 23 environmental questions raised in regard
 24 to the hotel and the adjoining Rainbow
 25 Lagoon," -- that was a long time ago --

1 "I'd like to request that the public
2 hearing be held in Long Beach, so that
3 interested persons in the community
4 can attend the meeting and express
5 their concerns.

6 "Some of these concerns are expressed
7 in my letters to you of November 5 and
8 12, 1979, January 14, 1980. Also,
9 see my letter to you of November 19, 1979.

10 "Some sixty-three drafts have been
11 prepared of the lease between the City of
12 Long Beach and the Hyatt Corporation. Now
13 that all the fine details of the contract
14 have been worked out, will there really be
15 any purpose in having a public hearing
16 on April 7 in order to receive public
17 input into the project? Would it
18 not have been more fair to the public
19 to have had a preliminary conceptual
20 review by the State Lands Commission
21 of the Convention Hotel many months ago?

22 "Very truly yours, Lester M. Denevan."

23 In response to this, Mr. Chairman, the final
24 package was received in our office less than 30 days ago.
25 Matter of fact, I think exactly 30 days ago today. So that

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1 proposal would not have been possible.

2 CHAIRPERSON CORY: The City did approve the
3 thing, didn't they, at a public --

4 MR. DEVER: The City has held at least three
5 public hearings. There have been hearings before the
6 Coastal Commission. At all of these hearings Mr. Denevan
7 has appeared and made these same statements.

8 CHAIRPERSON CORY: I just wanted the record
9 here to show that there had been ample local opportunity
10 for objections to be voiced. There does appear to be
11 substantial support within the community for the project.

12 There are a number of dignitaries here. Ollie,
13 do you wish to address --

14 SENATOR SPERAW: I'm certainly very much in
15 support of this lease.

16 Mr. Chairman, Members, my first experience with
17 the Long Beach tidelands was some 34 years ago with my
18 first Junior Chamber of Commerce project in Long Beach.
19 At that time we recognized the need for hotel facilities,
20 and at that time we didn't really have the convention
21 facilities.

22 This body approved the convention, performing
23 arts and trade show facility some time ago and it is now
24 in existence in Long Beach. Certainly a hotel at that time,
25 the need for one was known and that the City did agree at

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1 that time that they would work diligently to bring before
2 you such a facility. They're here today for that purpose.

3 I might point out that one of the features
4 of their proposal is some very favorable financing in light
5 of today's money market. If, for some reason, this
6 were not approved today, I would say the financial aspect
7 of it would throw it off, I don't know, just how many years,
8 until such another favorable financial package could be
9 put together again.

10 So for the full utilization of the present
11 center, we need the hotel, and that is the concern both
12 of the state and my district and of this City that that
13 facility does have all the supporting facilities that are
14 required. The attraction I'm certain that this hotel will
15 provide will bring others into the area and continue to build
16 the hotel complexes that are needed to support major conven-
17 tions. I urge your approval.

18 CHAIRPERSON CORY: David.

19 ASSEMBLYMAN ELDER: Mr. Chairman, Members of the
20 Commission, I would echo the statements of Senator Speraw,
21 in regards to this particular project.

22 This rounds out and completes the development
23 of our convention complex in Long Beach. It is something
24 that has been pursued by the City for many decades.
25 The 10 years that I worked for the City in the Budget Office

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1 and with the Harbor Department of the City of Long Beach,
2 this is one of the high priorities of City management and
3 we are now seeing the culmination of literally what must
4 be hundreds of years of staff time on this endeavor.

5 It is a unique financing package, but the
6 financial markets are such that one has to be a little more creative
7 than has heretofore been required. I think that pledging
8 the room tax as security has helped us attain this particular
9 rate of interest which is extremely good in today's money
10 market.

11 So I just would echo Senator Speraw's remarks
12 and indicate to you that a substantial vast majority of
13 my constituents are in support of this particular project
14 and urge the Commission to move this project along to
15 its construction phase.

16 CHAIRPERSON CORY: Is there anybody else that
17 wishes to speak?

18 MR. BROWN: Mr. Chairman, Members, Dennis Brown.

19 I would just like to again echo what Senator
20 Speraw and Assemblyman Elder have said. I think they've
21 said it all for the City. I think it's a package that will
22 benefit everybody. I would just like to add my strong
23 support for this proposal.

24 Thank you.

25 CHAIRPERSON CORY: Okay. Anybody else in the

1 audience on this item?

2 Questions from Commissioners.

3 MS. MORGAN: I wanted to call attention to the
4 effect of the grant reversion section of the staff
5 recommendations. It's on page 29.

6 MR. ACKERMAN: Same page I've got.

7 MS. MORGAN: Particularly paragraph 4 where
8 the staff recommends that if we make all the findings,
9 the Commission does this under the express position that in
10 the event of grant reversion, requirements of the State
11 to make rental or other payments shall be subject to
12 annual review and appropriation by the Legislature.

13 I think that's an important point and I want
14 to make sure that all the parties to this lease are aware
15 of that. I have had some concerns about the effect of
16 grant reversion should that occur at any time during this
17 50 or 75-year lease, and I do not want the State to be
18 tied up, the taxpayers of the state to be tied up. I think
19 that this provision that the staff has inserted is a
20 necessary one.

21 Thank you.

22 CHAIRPERSON CORY: Is that a surprise to anyone?

23 MR. DEVER: Certainly not as the City is
24 concerned. We concur in the recommendations and the
25 provisions that are expressly in those.

1 MR. ACKERMAN: Let me ask one question then.

2 I don't really know who I should
3 direct it to. What if the grant did revert and the
4 Legislature refused to make an appropriation?

5 EXECUTIVE OFFICER NORTHROP: I think I'd have
6 to refer that to the Attorney General.

7 MR. TAYLOR: Under the provisions, the Hyatt
8 could reenter the sublease which had formerly been held by
9 the City and operate it. They would probably --

10 MR. ACKERMAN: Operated as a sole entity?

11 MR. TAYLOR: Operated as an entity.

12 There may be other damage contentions, but
13 essentially under the law, it would be our opinion that would
14 be the limit of their rights. There would be probably a lawsuit.

15 CHAIRPERSON CORY: They could assume to the
16 City's contractual rights, but in assuming that they
17 would still be under the trust obligation; is that correct?

18 MR. TAYLOR: Yes. They would be under the
19 purposes of the lease which is a proper trust purpose.
20 So the purpose of the lease --

21 CHAIRPERSON CORY: So the State's interest
22 is protected?

23 MR. TAYLOR: Yes, it is.

24 CHAIRPERSON CORY: If the City couldn't cut it,
25 Hyatt could become the City?

1 MR. TAYLOR: It would recenter the City's
2 position in the sublease and operate it per those purposes.

3 CHAIRPERSON CORY: But it would not expand
4 their rights over and above what the City has. So the
5 state is still protected in terms of the purposes.

6 MR. TAYLOR: That's correct.

7 MR. ACKERMAN: The State is never under any
8 obligation to become the operator of the hotel facility?

9 MR. TAYLOR: If the State revoked the grant
10 and chose to take the property, the hotel property back
11 as a part of that, it would step into the shoes of the City
12 in operating the sublease and would also step into the shoes
13 as a lessor of the master situation. It's a lease, lease
14 back arrangement. The City leases to Hyatt. Hyatt subleases
15 back to the City as a public facility. So the State would
16 be substituted at both the top and the bottom of the
17 arrangement.

18 MR. ACKERMAN: That would be under the worst
19 of circumstances, though.

20 MR. TAYLOR: That's correct.

21 CHAIRPERSON CORY: And we still would have the
22 option of an outside contractor to actually operate the
23 hotel which is the position the City is in. But if you're
24 assuming the worst of all possible worlds and Hyatt would
25 not want to do that, we'd be on the streets trying to find

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1 somebody to operate a hotel I presume or Bill Northrop and
2 Bob Hight would learn how to make beds.

3 (Laughter.)

4 CHAIRPERSON CORY: Any further questions?
5 Any questions from anyone in the audience?

6 Ready for a motion.

7 MR. ACKERMAN: So moved.

8 MS. MORGAN: Second.

9 CHAIRPERSON CORY: Moved and seconded that
10 Item 16 be approved as presented.

11 Without objection, such will be the order.

12 Item 17 is the Capital Improvement Project
13 which is providing proposed expenditures for the Capital
14 outlays for the project are authorized 132. Are there
15 any questions on this item? Anybody in the audience on this
16 item?

17 Without objection, Item 17 is approved as
18 presented.

19 I'd like to thank the dignataries very much for
20 being here.

21 MR. ACKERMAN: I just have one comment. I think
22 I owe a big debt of gratitude to the staff of the Lands
23 Commission, the City and Hyatt International for putting
24 together a very good project and an excellent staff report.

25 CHAIRPERSON CORY: Thank you very much.

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1 MR. DEVER: Mr. Chairman, before we leave,
2 we'd like to thank the staff and also the Attorney General's
3 Office for their help on this project.

4 CHAIRPERSON CORY: For a change, huh?

5 (Laughter.)

6 CHAIRPERSON CORY: Thank you very much.

7 MR. ACKERMAN: Write that down.

8 CHAIRPERSON CORY: We're going to deviate from
9 the agenda.

10 Item 18, the Operational Audit. This is
11 accepting the report of the outside auditors. The staff
12 is going to go through that and come back with some
13 proposed action for us. So at this point we are just to
14 accept the audit; is that correct?

15 MR. TROUT: Yes, Mr. Chairman. The project
16 managers for the audit firm Deloitte, Haskins and Sells are
17 in the audience. The conclusions are found on page 9 of the
18 Haskins-Sells report which has been furnished to each of the
19 Commissioners.

20 MS. MORGAN: I want to interrupt for a moment,
21 please.

22 I'm a little irritated by the process for this
23 report. I understand that although the staff has had
24 an opportunity to review the draft report, the final report
25 was the first chance that the Commissioners had to look at

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1 any of this. I received it yesterday. It may have been
2 available on Friday. I'm not sure. But I really would
3 prefer to put aside any discussion of the content of the
4 report until the Commissioners have had a chance to review
5 it.

6 I'd like a chance to review it, and I'd like
7 my auditors to review it too.

8 CHAIRPERSON CORY: Is there any reason why we
9 have to do anything with it at this point?

10 MR. ACKERMAN: I don't think we were intending
11 to. At least my intention was, Susanne, as yours, is it's
12 a pretty complicated report and my direction at least in
13 discussing with the staff yesterday was to ask the staff
14 to review the report, review the recommendations, and then
15 come back with suggested proposals back to the Commission
16 to implement various recommendations made within the report.
17 I think that's probably going to take at least 30 to 60
18 days probably for the staff to complete that function.

19 EXECUTIVE OFFICER NORTHROP: That's where we
20 were coming from.

21 MS. MORGAN: Okay.

22 EXECUTIVE OFFICER NORTHROP: It's the report
23 in which the staff -- it's complete and we're laying it
24 on the desk now to take a look at.

25 CHAIRPERSON CORY: The question I guess is are

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1 you expecting any action from the Commission?

2 MR. TROUT: The only action we expected from
3 the Commission was the receipt of the report which would
4 allow us to pay the contractor who has completed the
5 work that was contracted for.

6 CHAIRPERSON CORY: If we don't publicly accept
7 this, we don't have to pay for it?

8 (Laughter.)

9 CHAIRPERSON CORY: There's a budget crisis.

10 (Laughter.)

11 CHAIRPERSON CORY: That's the cheapest way out.
12 We got the first draft. What the heck.

13 (Laughter.)

14 MR. TROUT: Staff would be more comfortable paying
15 the bill.

16 CHAIRPERSON CORY: Oh, you're going to pay the
17 bills. Any objection to paying the bill?

18 MS. MORGAN: Did they do the job? How do we
19 know? Do we pay by the pound?

20 (Laughter.)

21 CHAIRPERSON CORY: I would think that we have
22 ways of getting Haskins and Sells to conform any deficiencies
23 that are there. It will take them a little bit of time
24 to get it through the shop. And so if you have any, in the
25 next 10 days, or two weeks, discrepancies that you notice in

1 there, let me know and I will not sign my name to the
2 warrant.

3 MS. MORGAN: That's fine.

4 I would like to know if they're available to
5 respond to any questions or comments we may have after we've
6 had a chance to read this.

7 MR. TROUT: There are representatives of
8 Haskins and Sells here. They were expecting to just quickly
9 summarize the report today. My understanding is they would
10 be available later to go over specifics.

11 CHAIRPERSON CORY: Representative of Haskins and
12 Sells, are you available even though you get paid to explain
13 what's in this report after we've had a chance to digest it?

14 MR. STEVENS: We would be happy to meet with
15 you.

16 CHAIRPERSON CORY: Okay.

17 MS. MORGAN: Thank you.

18 CHAIRPERSON CORY: I think that's good enough.
19 We'll get you paid.

20 MS. MORGAN: I move we accept the report.

21 CHAIRPERSON CORY: The report is accepted with-
22 out objection.

23 Item 19.

24 EXECUTIVE OFFICER NORTHROP: Mr. Chairman,
25 Item 19 is a response to legislation of last year, a

1 Mr. Lance Kiley will explain the settlement that was arrived
2 at with the City of Vallejo and State Lands.

3 MR. KILEY: Mr. Chairman, Members, can you all
4 see the cartoon here okay?

5 CHAIRPERSON CORY: Okay.

6 MR. KILEY: Chapter 895 of statutes of 1980
7 contains findings made by the Legislature and directed the
8 State Lands Commission to carry forth a land exchange with
9 the City of Vallejo which would result in removing the
10 trust from those lands generally encompassed within the
11 area in yellow and the area in blue here and to exchange
12 the trust from there to land of equal or greater value.
13 The City of Vallejo some time after the legislation proposed
14 to exchange the trust over to the Lake Chabot Golf Course,
15 which is a couple of miles over the top of the hill here
16 and which is outlined in red on the far side of the picture
17 here. Staff studied the proposal and has made a finding
18 of equal or greater value. It has also determined that this
19 exchange would clear up a multitude of title problems which
20 exist over this yellow area especially because there were
21 numerous tideland surveys in this area causing a very complex
22 situation. We were never too sure what Vallejo had been
23 granted and what we still owned and what they owned in fee.
24 In analyzing the thing and making the equal value exchange,
25 we determined that the entire thing looked like a good deal

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1 and staff, therefore, recommends approval of the exchange in
2 the form that's been outlined and we've reached agreement
3 in principle with the city of Vallejo on the terms of the
4 agreement.

5 CHAIRPERSON CORY: If there's some question as
6 to property that has not been granted, what portion of the
7 golf course is the State receiving not as granted lands?

8 MR. KILEY: Mr. Chairman, anything that the
9 State had in this area outlined in yellow-blue was granted
10 to the City. In the golf course the State would actually
11 be acquiring a title of better degree than what it has here
12 because these areas down here would be subject to some
13 litigation to clear up title. In the golf course we're
14 going to be accepting a relatively clear title.
15 It's not subject to all these conflicting claims through
16 the tidelands claimants.

17 CHAIRPERSON CORY: Okay. That's the basic
18 outline of the program.

19 MR. KILEY: That's basically the outline, yes.

20 EXECUTIVE OFFICER NORTHROP: Thank you.

21 CHAIRPERSON CORY: Is there anyone in the audience
22 on this item?

23 Come forward and identify yourself, please.

24 MR. MacDONELL: Mr. Chairman, my name is Ted
25 MacDonell, City Manager of the City of Vallejo. I'm here

1 to urge you to adopt the recommendation of staff.

2 For the last year and a half or so we've been
3 working with your staff very diligently and have arrived
4 at what we feel is an equitable solution to this problem.
5 Staff has been very good in coming up with alternates and
6 suggestions whenever we ran into a roadblock.

7 We are now at a point when we are about to
8 sell about a 35 to \$50 million bond issue to proceed with
9 the development of these parcels and in this particular
10 financial market, as you heard earlier, it's extremely
11 critical that we be able to move ahead expeditiously.

12 I have with me -- I don't think they're expected
13 to speak -- but representatives of the developers, Mr. Kimmel
14 of Kimmel Construction Company, Mr. Graves, who has some
15 properties, Mr. Hoffman is not with us. We have the Mayor
16 and the former Vice-Mayor of the City of Vallejo that could
17 answer any specific questions.

18 I would urge you to adopt the staff's recommenda-
19 tion and thank you very much for your consideration.

20 CHAIRPERSON CORY: Is there any opposition in
21 the audience to this item?

22 MR. SHUTE: Yes, Mr. Chairman.

23 CHAIRPERSON CORY: Before we get to you, is
24 the Mayor here?

25 MR. MacDONELL: Yes, sir.

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1 CHAIRPERSON CORY: Would he come forward, please.

2 MR. MacDONELL: I drove him up. I know he's
3 here.

4 CHAIRPERSON CORY: It's Mr. Curtola?

5 MR. MacDONELL: Curtola, yes, sir.

6 MS. MORGAN: Maybe I could ask a question.
7 What sort of bonds are you selling?

8 MR. MacDONELL: We're going to sell mortgage
9 revenue bonds. We're one of the last agencies in the state
10 or the United States that has authority to sell mortgage
11 revenue bonds under the old pre-Ullman Act.

12 Evidentially he's stepped out, Mr. Chairman.

13 CHAIRPERSON CORY: If you want to get approval
14 of this item, I suggest you find him, because there's
15 unresolved business between the Mayor and the State Lands.

16 MR. MacDONELL: I think I know what you're
17 speaking of. I could speak to that point if you'd like.

18 CHAIRPERSON CORY: I would like to hear it
19 directly from him as to what is at issue or not at issue.

20 MR. MacDONELL: Okay. I'll check it out.

21 CHAIRPERSON CORY: If you want to wait for the
22 opposition, you've got time. Do you want to make your
23 statement, sir?

24 MR. SHUTE: Mr. Chairman and Members of the
25 Commission, my name is Clement Shute and I'm representing

1 the Mare Island Ferry Company and Mr. Victor Raahauge, the
2 President of the Company.

3 This is a small family business that operates
4 a ferry across from Vallejo to the Mare Island Shipyard and
5 has been in business in this family since 1922 and has
6 operated in some form or other since 1854. The company
7 uses the parking lot which is within the area that the
8 trust would be terminated and transferred.

9 The City is currently posted that parking lot
10 for closure on June 1, and we feel very strongly that's
11 very likely to put the ferry company out of business because
12 people that would use the ferry will have no proximity for
13 parking or vehicles. We think that in this regard the
14 company has received rather callous treatment from the city
15 and we're also concerned about the legality of this trust
16 transfer.

17 The lands involved where the trust would be
18 terminated abut navigable waters. They abut trust areas
19 and they certainly, the parking lot and the ferry operation,
20 are being used in conjunction with trust purposes.

21 The statute that was passed assumes that the
22 public will receive equal or greater value for trust
23 purposes elsewhere. What is proposed is a transfer to an
24 inland golf course which is several miles up this way and,
25 as far as I can tell, if there's any water around, it must

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1 be in connection with one of the holes on the golf course,
2 not a navigable waterway of the state.

3 I think the Mansell case which is the primary
4 case under California law dealing with exchanges of this
5 nature, the exchanged lands received by the State in that
6 case the court was careful to point out abutted navigable
7 waters and were to be used in furtherance of trust programs.
8 In this case, you might as well approve a trust transfer
9 to some desert land east of the Sierra Nevada. There's no
10 relationship with any traditional or actual trust use.
11 We think the approval of this would be bad policy, bad
12 precedent. Others might attempt to do the same kind of
13 thing, or serve the public no benefit in relation to
14 trust uses and we don't believe it is legal under the
15 Mansell case. We request that you reject the agreement.

16 CHAIRPERSON CORY: Does your client have some
17 contractual relationship or right to use the parking lot?

18 MR. SHUTE: It's a very long and complicated
19 history. Basically there was a major settlement between the
20 City and the company in 1966 where the company was given the
21 use of this parking lot. The company's position is that it
22 has retained interest in that lot, although there's no lease.
23 But we believe there's an estoppel that was understood at
24 that time that the lot would be available or approximate
25 facilities that would serve the same purpose. The City

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1 contends that the company has no interest. That may have
2 to be resolved in another forum. But the company does
3 contend that it has rights to that lot.

4 MR. ACKERMAN: Where is the parking lot supposed
5 to be relocated? Could you point that out on the map?

6 MR. SHUTE: Victor, could you show us where
7 the lot is? Mr. Raahauge can show you where he's located
8 and where the lot is.

9 MR. RAAHAUGE: This is our operation here.
10 The parking lot is directly east of the waterfront road.
11 You can see the outline. We have not discussed any alternate
12 parking.

13 MR. SHUTE: The City proposes to close this lot,
14 and there is no current active proposal under consideration
15 for proximate parking in the area. If employees that
16 work in the shipyard don't have proximity to the ferry
17 operation, they probably won't use it and the company will
18 probably go out of business. That's our concern.

19 CHAIRPERSON CORY: So the people that park there
20 pay parking fees?

21 MR. SHUTE: As of this moment, it's been made
22 available by the City as a free lot for all day parking.
23 This is a situation also where the Mare Island
24 Naval Shipyard expects to be building more ships in the
25 near future under the expanded national defense budget and

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1 it seems rather a shame that this business serving a strong
2 public purpose would suffer from the closure of this lot
3 under these circumstances.

4 CHAIRPERSON CORY: Questions?

5 MS. MORGAN: I would assume that this matter
6 has been discussed with the City.

7 MR. SHUTE: We are having discussions with the
8 City on all these other grounds, but I think we have a
9 duty to point out to you that the transfer of the trust
10 interest to an inland area is we think not lawful.

11 CHAIRPERSON CORY: Would you care to comment on,
12 as I understand it, there's a specific statute that says
13 that that has been passed saying that this is not necessary
14 for --

15 MR. SHUTE: Trust purposes?

16 CHAIRPERSON CORY: Yes.

17 MR. SHUTE: I believe that's correct. But I think
18 that you are empowered to approve the situation where the
19 public receives equal or greater value in return. That is
20 your function. What we're questioning here is the legality
21 of where the trust interest will be proposed to be transferred.
22 We recognize that if the City wants to go forward with this
23 project eventually there has to be some accommodation of the
24 company's concerns.

25 CHAIRPERSON CORY: The Attorney General, do you

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1 have any comments or recommendations on the trust purpose?

2 MR. TAYLOR: Mr. Chairman, we have not been
3 involved in the negotiations of this matter. However,
4 we have been consulted as to our views with regard to it.
5 Not having thoroughly examined it, I would say, one, that
6 the Legislature has passed the statute making the finding
7 that has been required and that it's within the province
8 of this Commission to act upon that. However, there are
9 certain unique aspects of this project which, if reviewed
10 by a court, would come under severe scrutiny.

11 There is a certain amount of deference to the
12 findings of the Legislature and the administrative bodies
13 to whom responsibility is delegated. However, in the
14 case of public trust lands, the courts have scrutinized
15 that legislative delegation and -- first of all, the finding
16 of the Legislature and the exercise of that delegated
17 responsibility very closely, and, in some instances have
18 not sustained it. I think that this would be a case where
19 prima facie you have the authority to do it. How it would
20 withstand the questioning court would make a very interesting
21 case. Generally you go in with presumptions on your side.
22 I don't know how thoroughly it would be presented, but that
23 would be where it would end up.

24 CHAIRPERSON CORY: But is our finding here,
25 is our question one of equal value or is our question one

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1 of looking to the validity of the statute and/or the
2 constitutionality of the statute?

3 MR. TAYLOR: I'd have to refresh my recollection
4 by looking at the statute for a moment.

5 CHAIRPERSON CORY: Take the moment, because I'd
6 like to know what it is we're supposed to be doing. It just
7 seems to me, as you're looking at it, if we have found
8 equal value, that's an arithmetic function. That's relatively
9 easy to do. If we are limited by the existence of the
10 statute as to what our options are, then I've got one
11 set of standards to apply to the transaction. But if you
12 are --

13 MR. SHUTE: Mr. Chairman, if I might just
14 interject, I don't want to get into a cross debate with
15 counsel here. I think that there's an underlying assumption
16 that what you do would be on a legal premise, and we're
17 questioning the legality as a matter of trust law of
18 transferring a trust interest to this inland location.

19 CHAIRPERSON CORY: This is a complicated thing
20 because of a recent constitutional amendment saying that
21 a state agency cannot question the constitutionality of
22 a legislative act. I don't know where we are. That's why
23 I'm making the point.

24 MR. TAYLOR: Essentially the answer to your
25 question is that the Legislature has made the findings with

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1 regard to the property and those questions would have to be,
2 if litigation were to be, if there were litigation, would be
3 reviewed by the court in the normal manner that they review
4 those kind of findings with some greater degree of
5 scrutiny since public trust lands are involved. The finding
6 for this Commission is the equal or greater value question.

7 MS. MORGAN: Well, what's the basis for making
8 that finding? What criteria do you use? It sounds to me
9 like the counsel is implying that we should just move up
10 the river a little ways to find property. That that's the
11 only thing that's acceptable. Why is it acceptable in
12 your eyes to go inland?

13 MR. KILEY: It's acceptable in that the law
14 is not explicitly clear on the subject. Marks vs. Whitney
15 came out sometime after Mansell and delineated recreational
16 use as a trust use specifically. Furthermore, the golf course
17 use was a specified trust use in the 1963 amendment to the
18 grant statute here. So to us, as staff, where specifically
19 the golf course was situated didn't seem to make that
20 material difference if golf courses are in fact encompassed
21 within the trust use, and as recreation under Marks vs.
22 Whitney they seemed to be.

23 MS. MORGAN: Have we made exchanges previously?

24 MR. TAYLOR: Yes.

25 MS. MORGAN: Have we exchanged for what we

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1 considered to be equal value shoreline for inland property?

2 MR. TAYLOR: No, we have not.

3 MR. SAUTE: Again, Mr. Chairman, if you'll
4 entertain a brief remark. I was co-counsel with Mr. Taylor,
5 as he'll verify, in Marks vs. Whitney representing the
6 State, and I think it's the farthest thing from the court's
7 mind in elaborating on trust uses in contemporary times
8 that that would extend to golf courses inland. It had
9 nothing to do with any of the issues in the case.

10 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, may
11 I remind you --

12 CHAIRPERSON CORY: I was thinking that if there's
13 one court case rattling around somewhere on religious
14 freedom for people who worship while playing golf, if that
15 prevails, we may have a separation of church and state
16 problem.

17 (Laughter.)

18 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, may
19 I remind the Attorney General of the settlement in Seal Beach
20 in which we did take a parcel away from the water.

21 CHAIRPERSON CORY: What, the airport?

22 EXECUTIVE OFFICER NORTHROP: Airport Club.

23 MR. TAYLOR: That's true, there is that.

24 CHAIRPERSON CORY: We got a poker palace out of
25 that one.

1 MS. MORGAN: My impression was that we really
2 did not distinguish between shoreline or inland property.

3 MR. TAYLOR: I think that generally it has been
4 tried to get the property as close to the water as possible.
5 What's happened in this transaction is that in order to make
6 to make the equal or greater value, it was necessary to go
7 to this parcel of property. Generally exchange parcels have
8 been on the water or adjacent to it. I think the Airport
9 Club one is within the proximity of Alameda's Bay. It
10 is not immediately abutting the water. It is some distance.
11 It's a little ways inland, maybe a quarter of a mile inland.
12 It is adjacent to the San Gabriel River and a fishing loca-
13 tion. There is a fishing --

14 CHAIRPERSON CORY: San Gabriel River, come on.
15 I grew up there.

16 (Laughter.)

17 MR. TAYLOR: The San Gabriel River at this point
18 has been dredged for circulation to the Haynes Steam Plant
19 and there are fish running there and the Wildlife Conservation
20 Board has made an appropriation for trash can and public
21 parking and people do fish from adjacent from this parcel
22 of property for fish and they catch them, believe it or not.

23 CHAIRPERSON CORY: Okay.

24 MR. LAMOREE: Excuse me, Mr. Chairman, if I might.
25 I'm Charles Lamoree, the assistant to the attorney from

1 Vallejo, and I'd like to put in just a couple of cents
2 with respect to the legalities of this.

3 CHAIRPERSON CORY: Sure.

4 MR. LAMOREE: I don't think this is the appro-
5 priate forum, however, for the legal issues, necessarily,
6 but I would simply point out two things.

7 First, the issue I believe with respect to the
8 parking lot and the litigation that will occur I'm certain
9 between the City of Vallejo and Mr. Raahauge I do not believe
10 to be germane to the issue before the Commission here today.
11 The second thing is that the Legislature has provided for
12 lands of equal or greater value without distinction with
13 respect to trust lands or tidelands of equal or greater
14 value. So I think that it is appropriate in this case that
15 a parcel of land, although it not be adjacent to a navigable
16 stream, but it is adjacent to a recreational lake where
17 fishing is viable, is appropriate in this particular
18 circumstance.

19 CHAIRPERSON CORY: Is it permitted?

20 MR. LAMOREE: Yes, it is permitted.

21 Finally, I think one thing was alluded to by your
22 staff -- and I felt the staff did a good job on this -- is
23 the fact that in addition to the findings with respect to this
24 transaction by the Legislature, is the fact that the confusion
25 of titles in this particular area, as well as the boundaries

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1 which are also in confusion, will be solved by this particular
2 transfer and I believe it is appropriate. But I just felt
3 that the Commission should make this distinction that
4 Mr. Raahauge's issue I do not believe is at all related to
5 this matter. Thank you.

6 CHAIRPERSON CORY: Would you like to comment
7 on the specific question that seems to be raised that
8 Mr. Raahauge is engaged in water-borne commerce navigation?

9 MR. LAMOREE: No question about it.

10 CHAIRPERSON CORY: And that the parking lot is
11 used to facilitate that. Is there any question as to that
12 ~~back~~ the case?

13 MR. LAMOREE: Well, I think the people that use
14 his ferry certainly park there. But the original, at least
15 from our view -- and, again, we're going to be getting into
16 the merits of the case that ultimately will be decided.

17 CHAIRPERSON CORY: I don't mean the merits of
18 that. My problem is what appears to be a legislative
19 statute that says black is white, that it is no longer
20 necessary for that trust purpose. That's the dilemma that
21 I have in my mind.

22 MR. LAMOREE: But I think the only way to resolve
23 that is to understand the history of the fact that the park-
24 ing lot that they're talking about was an interim parking
25 lot. Originally where the parking lot exists there's

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1 supposed to be a state freeway and that the original paying
2 of it, and, as far as we're concerned, there is no right
3 that Mr. Raahauge has with respect to it. It was to be for
4 a short period of time. There never was to be a question
5 that it was to be an ancillary use to the navigable process
6 that Mr. Raahauge engages in.

7 So I think that what he's doing, my own view --
8 again, this is getting, I think, far afield -- is to boot-
9 strap his own claim for condemnation of the property
10 we've already condemned and acquired 15 years ago by
11 attempting to interject in this particular process. I think
12 that they are distinct.

13 I simply leave my comments at that.

14 CHAIRPERSON CORY: Questions from the Commissioners?

15 MS. MORGAN: Well, the condemnation previously
16 was for a freeway?

17 MR. LAMOREE: The condemnation was an entire
18 redevelopment project which would include a freeway,
19 commerce, or, excuse me, commercial structures. The City
20 Hall which has been built, the library and so forth. This
21 entire area formerly known as Lord Georgia Street which had
22 a variety of reputations, depending on who you talked to,
23 was completely redeveloped. Part and parcel of that was to
24 be the freeway. Then Caltrans decided they would not build
25 the freeway. An amendment of the Redevelopment Plan went

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1 through which provided for residential and at no time was
2 there ever a determination made that the parking lot that
3 Mr. Raahague claims as his own was to ever be there as a
4 permit matter, but simply interim use pending first the
5 development of the freeway and now the commercial and
6 residential development.

7 MR. ACKERMAN: One question. When we first
8 were debating the land exchange, didn't we originally take
9 a look at some bay front property and we could not make the
10 determination of equal or greater value, so we had to look
11 elsewhere?

12 MR. KILEY: Yes, we did. We considered a parcel
13 on the north side of Marc Island that was across the straits
14 from the parcel here in question and determined that there was
15 no way that an equal or greater value could be met. As a
16 matter of fact, I think we considered a couple of parcels
17 over there.

18 MR. ACKERMAN: My knowledge was that if those
19 parcels weren't able to be exchanged, that really there were
20 no other suitable waterfront parcels that could meet that
21 test.

22 MR. KILEY: That was Vallejo's contention.

23 CHAIRPERSON CORY: That transaction wouldn't
24 solve the opposing gentleman's problem anyway.

25 MR. LAMOREE: No.

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1 CHAIRPERSON CORY: If we swap for something on
2 the other side of Mare Island, unless somebody wanted to take
3 a ferry from one point on Mare Island to another point, that
4 wouldn't do your client much good.

5 MR. SHUTE: Except in the sense of time, your
6 Honor. I think we need some time to work this out with the
7 City and that parking lot doesn't have to be closed if this
8 is an illegal opinion.

9 MR. LAMOREE: I think the other thing is, assum-
10 ing there was no change at all still wouldn't change his
11 problem since there are a tremendous variety of uses that
12 can be utilized in this particular area. You can put up
13 an asphalt plant. You can put up commercial development.
14 It all could be built over the parking lot. So I don't see
15 that as being germane.

16 CHAIRPERSON CORY: Depending upon whether or not
17 it's encumbered with the trust.

18 MR. LAMOREE: Well, the trust provisions with
19 respect to these parcels down here encompass a wide variety
20 of possible uses. We would think residential would be
21 included, but there are others that think they're not. But
22 certainly there are a variety of commercial utilizations
23 which could be utilized which could be placed on the parking
24 lot.

25 CHAIRPERSON CORY: I just wanted to clean that

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1 up so there's not, sometime in the future, somebody thought
2 I was acquiescing in that decision, I understand where you're
3 coming from.

4 Okay. Is the Mayor back?

5 Mayor Curtola?

6 MAYOR CURTOLA: Yes. I'm Terry Curtola, Mayor
7 of the City of Vallejo.

8 CHAIRPERSON CORY: I've read with interest
9 some of your activities in the newspaper, and I'd like an
10 explanation --

11 MAYOR CURTOLA: All right, Mr. Cory.

12 CHAIRPERSON CORY: -- on your attitude towards
13 State Lands.

14 MAYOR CURTOLA: All right, sir.

15 I found out about that yesterday. I do know when
16 it was in the paper after we came back from a meeting
17 with your staff and you're talking, if I understand correctly
18 your concern is --

19 CHAIRPERSON CORY: The Vallejo Independent Press,
20 Friday, March 20th, '81, fourth column, "I don't know if
21 you've ever dealt with the State Lands. I'd rather deal with my
22 5-year-old child."

23 MAYOR CURTOLA: Yes. Let me just go back, and
24 the quote is very accurate. There was a little bit more.
25 The meeting did go on at our Council meeting for about

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1 45 minutes before that. The discussion was brought up by
2 one of our Council members. This was after we had met with
3 your staff and come back and had been working on the lease
4 change with the Vallejo Golf Club Board of Directors. Then
5 our Council was acting on amending the lease agreement with
6 them so they would succeed to the trust if it was placed
7 on their golf club.

8 At that time, this one Council member had said
9 she did not feel that the trust belonged that far away from
10 the water and I said that isn't what we are discussing and
11 I said, "Our problem has been on land value." She said,
12 "Well, I understand that the State Lands does not agree to
13 that." I said, "We spent three hours with the staff the
14 day before," if I'm not mistaken, having our big discussion
15 was on trying to explain what is land of equal or greater
16 value and was it the City's interest in the property or was
17 it the value of the property. And I said exactly that it
18 was easier to explain our position to my 5-year-old son than
19 it was to State Lands. I think about three or four days
20 later I talked to your staff when they had called and we
21 still had a difference. It was, and I think between the City
22 of Vallejo staff and myself and the Vice-Mayor that were up
23 at that meeting and your staff. It was deep discussion on
24 how the value of the land was going to be determined. Was it
25 out interest in it because of the lease we had or was it the

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1 value of the property? To this day, and I've said this even
2 to your staff on the phone, that I think my 5-year-old son
3 did understand it from the way I was presenting it to him.

4 CHAIRPERSON CORY: Take your time and tell me
5 what your position is on this and the difficulty you're
6 having with our staff.

7 MAYOR CURTOLA: You have to go back, Mr. Cory.
8 This goes back to our first meeting, the first time I had
9 met with your staff. The question at that time, which, if
10 I'm not mistaken, has been resolved, was when we looked at
11 the part of the bill that says land of equal or greater value
12 and they were subtracting the years of the lease we had with
13 the Vallejo Golf Club's. My argument was that the land is
14 worth "X" amount of dollars regardless of the lease, whatever
15 the land is worth. Now, we still have a difference, or we did
16 have a difference of opinion.

17 CHAIRPERSON CORY: If you were buying land and
18 somebody had a 99-year lease on it, you would pay as much
19 for that land as you would pay for land without the lease?

20 MAYOR CURTOLA: Excuse me, sir. What I was saying
21 was, I'm in business at home. If my property is worth
22 a million dollars and you would like to buy it, and if the
23 Bank of America, which is using a true fact, owns \$700,000
24 of my business from a loan or lease per se, you are still
25 going to pay me the million dollars and I'm going to have to

1 give the Bank of America \$700,000. So I am saying that the
2 value of my land was a million dollars. I am not an attorney.
3 I'm not in real estate. Everyone I talked to, I would say, as I
4 said to your staff after, and I probably spoke to eight different
5 real estate people and seven of them agreed with me and one
6 of them agreed with your staff. So there is that question.

7 CHAIRPERSON CORY: But the issue is that there's
8 a lease on this property that's being acquired and it's a
9 question of whether or not the value of that lease is
10 deducted. When the transaction is completed, are you paying
11 off the lease so that the lease is no longer there and you've
12 bought him out in your analogy of the bank that you're
13 paying off the bank if I buy your property for a million?

14 MAYOR CURTOLA: No. We have the value -- using
15 the same analogy -- the value of the land is, let's say,
16 a million and a half dollars on the golf course. If the
17 value of the land that they're talking about on the trust,
18 that 40 acres is a million and a half dollars on the figures --
19 you have them there in front of you -- and if the Senate bill
20 states that you can exchange the trust for lands of equal
21 or greater value, then in my simple mind you could take a
22 trust for a million and a half dollars worth of land here and
23 put it on a piece of property over here that's worth a million
24 and a half dollars. Not whose interest is in it. The City
25 owns that land.

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1 CHAIRPERSON CORY: But if you leased it to
2 someone else and they have the right, you don't have clear
3 title to a million and a half. You can't take a million
4 dollars back to your business and pocket the full million
5 and have the new owner pay off Bank of America \$700,000 in
6 addition.

7 MAYOR CURTOLA: Well, as part of our discussion,
8 the possibility was that we could go drop the lease for the
9 Vallejo Golf Club and then put the trust on it.

10 CHAIRPERSON CORY: I'm just trying to understand.

11 MAYOR CURTOLA: Maybe that's why, Mr. Cory, I've
12 said to your staff --

13 CHAIRPERSON CORY: That your 5-year-old son
14 understands all this.

15 MAYOR CURTOLA: He understood that. Maybe it
16 was the way I explained it. That was right after --

17 CHAIRPERSON CORY: I'm not sure he's perceiving
18 property rights if he's accepting your analogy, but go ahead.

19 MAYOR CURTOLA: Maybe I don't either, Mr. Cory.
20 But I'm just saying that was my statement at that time.
21 A few days later your staff had called me and we went over
22 everything, and as I heard our City attorneys state, your
23 staff has been excellent working with that. At that time when
24 I had one Council member discussing that they didn't under-
25 stand this, that was my statement. Maybe it's out of

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1 frustration, but my 5-year-old son I think would have under-
2 stood it, but maybe I made him understand the way I perceived
3 it.

4 CHAIRPERSON CORY: One of the things that I keep
5 track of is I am concerned about overreaching of government
6 and what bothers me, and I dealt with that one, is do you
7 recall ever meeting a George Gianulis? I may be mispronounc-
8 ing it, G-i-a-n-u-l-i-s.

9 MAYOR CURTOLA: I know who he is, Mr. Cory.

10 CHAIRPERSON CORY: Were you involved in some
11 other difugalty of White Slough and the Lands Commission?
12

13 MAYOR CURTOLA: No, sir. The first time I met
14 on that was about three weeks ago with all the properties
15 out there. If you're referring to when Senator Nielson had
16 a meeting in the City Council Chamber and he had all the
17 property owners of the White Slough area and all the State
18 agencies and Federal agencies involved there. He asked me
19 to attend the meeting.

20 CHAIRPERSON CORY: What I'm troubled about --

21 MAYOR CURTOLA: Mr. Cory, I know what you're
22 saying, and let me be real honest with you. Yes, I've been
23 an elected official now for 13 years and I've served on
24 some State agencies, the NTC, et cetera, I guess from my end
25 and maybe I have a bad habit, I work within the system.
Sometimes I do get extremely frustrated I think as you or any

1 elected official does. Now you're referring to a statement
 2 that I think was made, quote, by the newspaper that I said
 3 about State Lands. I don't think I did. I think the actual
 4 quote was towards BCDC. The answer was when all these people
 5 were screaming at Senator Nielson and Assemblyman Sebastiani
 6 and myself about why aren't we doing anything, I said that
 7 sometimes the elected officials cannot make the decision that
 8 a lot of agencies do. I think that's very true. As I told
 9 your staff, and we've had good relations with BCDC. I don't
 10 feel that I'm obligated not to criticize. I do, I get very
 11 frustrated at times because my job has been -- I served 8
 12 years on the City Council and retired from it figuring I had
 13 done my civic duty and I still believe my City wasn't
 14 moving in the direction it should be, and ran again. I guess
 15 I get impatient. I would like things to happen for the
 16 betterment of my City. When you run into roadblocks, and
 17 you think you've done everything you can to resolve them and
 18 you still have another roadblock, I get very frustrated.
 19 I did that with my own LAFCO Board yesterday morning. Same
 20 type of statement. I serve on that one, so I am criticizing
 21 myself.

22 CHAIRPERSON CORY: What concerns me is trying to
 23 make sure you understand your obligation as a public
 24 official vis-a-vis the public trust on those properties.

25 MAYOR CURTOLA: Yes, I do.

1 CHAIRPERSON CORY: And I want to make sure that
2 you clearly understand that I am required to do things I
3 don't agree with as a member of this Board. They pay me
4 forty-two five a year. I took an oath and I got to do the
5 job. Some if you like and some of it you don't. But the
6 Courts have clearly laid out, somewhat clearly laid out in
7 some court cases some limits as to what we can and can't
8 do. Frustrations are something we all suffer. But one of
9 the things that bothers me if the staff has done some things
10 incorrectly, I get on them and that's what the system is
11 all about and that's fine.

12 What I am concerned about in the particular case
13 that really sort of bothers me why it stuck, and it was not
14 your name, was the fact that an employee of BCDC was involved
15 in, in essence, a physical altercation with a land owner
16 which I think is beyond working within the system.

17 MAYOR CURTOLA: Mr. Cory, in fact I refused to
18 meet with that man up until a week ago on behalf of the
19 other property owners.

20 CHAIRPERSON CORY: Those kinds of things I think
21 we have to make the record clear and you have to clearly
22 understand that the court says that there are limitations
23 on what we can do. That there are public trusts and
24 we must obey the public trust.

25 I think we've got a serious constitutional

1 question that is likely to be litigated in this particular
2 transaction. You know, the Legislature cannot do everything
3 it wants. I was in the Legislature. There are limitations.
4 Some of those limitations I don't like. I happen to have
5 lost property that I thought I had paid for. I know I had
6 paid for. I thought I owned, that I didn't own to this
7 band of people enforcing the law. It disturbs me. But I
8 have to ask you the tough questions when I see statements
9 like this in the paper and we're, in essence, entering
10 into a trade with you as Mayor and the City representative.
11 If you don't understand that obligation, then maybe we
12 shouldn't make the trade until you do understand. If you
13 understand that obligation, I think we can go ahead and
14 proceed with the understanding that I want the record clear.
15 I think there's probably equal value in the value from what
16 the staff has said in the report. We can make that trade.
17 Whether or not that's commensurate with the public trust,
18 I don't know. Somebody else should make that determination.
19 I don't think this is the proper forum. I think that's what
20 the Attorney General advised me. But I do not want to allow,
21 because there was a couple of things in the newspapers that
22 bothered me that we didn't have a chance to clear up that
23 dialogue. I understand your position and hopefully you
24 understand mine.

25 MAYOR CURTOLA: I do, Mr. Cory. I feel, at least

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1 I feel -- maybe it's my Italian blood, I don't know. I'm
2 very careful of what I say, because I believe in the trust
3 that I have from the constituents. I may answer, I did not
4 say, and I think your staff knows that, I did not say that
5 they were doing anything wrong. I fully agree with what
6 law they have to work under. My 5-year-old son's statement
7 that I said was trying to explain how to figure land value.
8 As I'm saying that to you, I can see people around, some
9 shaking their head yes, some shaking no.

10 CHAIRPERSON CORY: My problem is if you have a
11 real complaint with the staff, you've got a right to state
12 your views and you should. But I think all of us in public
13 life have to be careful when we send these guys out of here,
14 and they aren't paid all that well, the State employees.
15 When I see a BCDC employee or a State Lands Commission employee
16 taking a lot of abuse, I have to defend them. I kick them
17 when I think they're wrong. I just wanted to get that
18 clarified that we were dealing with people that understood
19 what the trust was, that we got a tough job to do. Sometimes
20 I disagree with what the courts have told me I got to do,
21 but I've got to do it.

22 MAYOR CURTOLA: The Mr. Gianulis thing, a hundred
23 percent. If you see a picture in the paper of Mr. Gianulis
24 and I and Senator Nielson, it was Senator Nielson and I that
25 the photographer was taking. The other gentleman walked up.

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1 CHAIRPERSON CORY: I understand those problems.
2 Any further questions from Commissioners?

3 Okay. Thank you.

4 Sorry, but it was necessary to clarify that.

5 MAYOR CURTOLA: I understood.

6 CHAIRPERSON CORY: Anybody else in the audience on
7 this item?

8 MS. MORGAN: Well, it sounds like it's an order
9 that's consistent with the legislation and should be approved
10 at this point.

11 CHAIRPERSON CORY: It seems to me that the equal
12 value is there.

13 MR. ACKERMAN: No question about that.

14 CHAIRPERSON CORY: But I don't want to find any
15 more than that. I think if we do that, then whatever issues
16 people can resolve in whatever forum as long as the record
17 is clear here that we are finding it of equal financial value
18 and the two properties to be exchanged can go ahead.

19 Without objection, such will be the order.

20 Item 19 is suspended with.

21 Item 20, City of Redondo Beach, conditional
22 approval to spend trust revenues for building a parking lot.
23 Is there anybody in the audience on this item?

24 MS. MORGAN: I have a question. Will this parking
25 facility include bicycle parking?

1 EXECUTIVE OFFICER NORTHROP: We don't know the
2 design.

3 CHAIRPERSON CORY: Anybody here from the City of
4 Redondo?

5 MR. PARSONS: Chairman Cory, Members of the
6 Commission, Richard Parsons, Harbor Director for the City
7 of Redondo Beach.

8 I'm sorry, I didn't hear the question.

9 CHAIRPERSON CORY: Does the facility that you're
10 providing have parking for bicycles.

11 MR. PARSONS: There's a plaza level that we're
12 talking about on the top of it. It's just that, a plaza.
13 The bike path, the Santa Monica Bay bike path goes right
14 across the top of it. So there would be bike racks on that
15 upper level.

16 MS. MORGAN: That's fine.

17 CHAIRPERSON CORY: Any questions from
18 Commissioners?

19 Without objection, Item 20 will be approved as
20 presented.

21 Item 21, consideration of five-year Utilization
22 Report for Granted Lands. They've done some nice things.

23 EXECUTIVE OFFICER NORTHROP: They've done some
24 nice things.

25 CHAIRPERSON CORY: City of San Mateo. Is there

1 anybody here in the audience on this item?

2 Without objection --

3 MS. MORGAN: That's fine.

4 CHAIRPERSON CORY: -- Item 21 is taken care of.

5 Item 22, authorization for Execution of

6 Memorandum --

7 EXECUTIVE OFFICER NORTHROP: Off calendar.

8 CHAIRPERSON CORY: Off calendar. Whoops, pardon

9 me.

10 Item 23, BLM, we're giving them a road in Lassen
11 County for \$13,050. Is there anybody in the audience on this
12 item? Questions from Commissioners?

13 Without objection, Item 23 is approved as
14 presented.

15 Item 24, Novato Center, Incorporated. This is
16 extending a time limit to extract 500,000 cubic yards of fill
17 material at 15 cents and requiring construction of a salt
18 marsh restoration facility on a 200-acre parcel.

19 Anybody in the audience on this item? Questions
20 from the Commissioners?

21 Without objection, Item 24 is approved as
22 presented.

23 Item 25, authorize the granting of the deferment
24 of drilling requirements on State Oil and Gas lease in Belmont
25 Offshore Field, Orange County.

1 EXECUTIVE OFFICER NORTHROP: Mr. Chairman, there
2 have been several wells drilled on this location. The
3 lessee would like some time for work over program and
4 a production testing program before they proceed with the
5 development program and the staff feels that this kind of a
6 development delay probably is in order so they can best
7 utilize the field.

8 CHAIRPERSON CORY: You're becoming incredibly
9 bureaucratic.

10 EXECUTIVE OFFICER NORTHROP: I know.

11 CHAIRPERSON CORY: This is the one they ain't
12 got no oil coming out, but not enough.

13 EXECUTIVE OFFICER NORTHROP: They got some oil,
14 but not enough, and they want to reevaluate the program.

15 CHAIRPERSON CORY: The length of time that we're
16 putting this off is?

17 EXECUTIVE OFFICER NORTHROP: One year,
18 Mr. Chairman.

19 CHAIRPERSON CORY: Does it take a year to do that
20 evaluation?

21 EXECUTIVE OFFICER NORTHROP: We are going to
22 review it quarterly in the next year as to the progress of
23 what they've done.

24 CHAIRPERSON CORY: And if we aren't making
25 progress?

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1 EXECUTIVE OFFICER NORTHROP: If we're not
2 satisfied, we'll come back to the Commission and we'll say
3 they're not doing diligently developing the lease.

4 CHAIRPERSON CORY: And we have the option of
5 terminating if there's lack of diligence?

6 EXECUTIVE OFFICER NORTHROP: That's correct,
7 Mr. Chairman.

8 CHAIRPERSON CORY: Okay. The lawyers are
9 comfortable with that?

10 MR. HIGHT: Yes, Mr. Chairman.

11 CHAIRPERSON CORY: You know what you're nodding
12 to, Greg?

13 MR. TAYLOR: (Shaking head.)

14 MS. MORGAN: Boy will you be surprised.

15 CHAIRPERSON CORY: You just agreed to outside
16 counsel.

17 (Laughter.)

18 CHAIRPERSON CORY: In the Exxon deferral, they're
19 talking about quarterly reviews on diligence. If we uni-
20 laterally decide they have not been diligent, we have that
21 option of terminating?

22 MR. TAYLOR: They're agreeing to it and this was
23 worked out and Hager did pass on it. My nodding was
24 it was an oil item that was reviewed by our office and
25 we're satisfied. Although I couldn't address specifically