

MINUTE ITEM

6/23/71  
LHG

3. PUBLIC AGENCY PERMIT AND INTERIM AGREEMENT PRESERVING THE RIGHTS OF ALL PARTIES, SWAMP AND OVERFLOW LANDS, SANTA CLARA COUNTY; COUNTY OF SANTA CLARA AND CITY OF PALO ALTO - W 8911, PRC 4598.9.

After consideration of Calendar Item 5 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. AUTHORIZES THE EXECUTION OF AN AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND SANTA CLARA COUNTY, SAID AGREEMENT BEING ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND MADE A PART HEREOF BY REFERENCE THERETO. SAID AGREEMENT WILL PROVIDE FOR THE ORDERLY DEVELOPMENT OF CERTAIN LANDS IN THE COUNTY OF SANTA CLARA DESCRIBED IN EXHIBITS "A" AND "B" ATTACHED AND BY REFERENCE MADE A PART HEREOF, SUBJECT TO A DISPUTE OF TITLE.
2. AUTHORIZES THE STATE LANDS DIVISION AND THE ATTORNEY GENERAL'S OFFICE TO TAKE OTHER STEPS NECESSARY IN RESOLVING THE TITLE DISPUTE TO THE BEST INTERESTS OF THE STATE OF CALIFORNIA, THE COUNTY OF SANTA CLARA, AND THE CITY OF PALO ALTO.

Attachment:

Calendar Item 6 (4 pages)

PUBLIC AGENCY PERMIT AND INTERIM AGREEMENT  
PRESERVING THE RIGHTS OF ALL PARTIES

In the 1920's and 1930's the City of Palo Alto acquired a number of parcels in Santa Clara County that were derived from State Swamp and Overflow Patents. Navigable bodies of water, namely, Mayfield Slough and San Francisquito Creek, meandered throughout the aggregate parcels. In the time since acquisition of these parcels, rather haphazard development has occurred on the properties, and assorted dredging and filling have been conducted, so that today the natural waterways are obscured and in many places are filled and suitable for construction. Past developments within the area have been of such a character that loan money was not necessary for financing.

On March 27, 1967, the City of Palo Alto leased a portion of its lands to the County of Santa Clara for airport purposes. Following that, on October 10, 1967, the City leased additional lands to the County for yacht-harbor purposes. Since the inception of these leases, the County has endeavored to upgrade the character of the facilities located on these parcels. The County issued leases in 1969 and 1970 to Nystrom Aviation Corporation, Palo Alto Aviation, Inc., and Encinal Park, Inc. These leases call for expensive improvements that will require financing. Preliminary title reports for the purposes of financing show exceptions regarding the State's interests in Mayfield Slough and in San Francisquito Creek.

Neither the City of Palo Alto, the County of Santa Clara, nor the State has the time available to research the title problem to such an extent that an agreement and exchange could be completed within the limits set in the development contracts. Although a permanent settlement of this problem would be desirable, it is felt that this interim agreement is necessary to avoid litigation involving not only the State, the City of Palo Alto, and the County of Santa Clara, but also those private parties involved in the airport development project.

In order to avoid this litigation and to allow orderly development of the property, the Division proposes a lease to the County of Santa Clara that contains the following conditions.

1. The rights of the parties to the agreement will not be prejudiced by the agreement.
2. The consideration for the permit will be the public benefit. However, the State reserves the right to review the consideration at any time and to set a monetary rental if in the best interests of the State.
3. The land shall be used for the construction, operation, and maintenance of a yacht harbor, airport, and related facilities. The State (State Lands Commission) will approve the existing subleases to Nystrom Aviation Corporation, Palo Alto Aviation, Inc., and Encinal Park, Inc.

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4. All future subleases will require prior approval of the Commission.
5. Any revenue accrued under the permit will be expended on the premises.
6. The County will agree to indemnify the State for any loss or liability arising from the use of the property.
7. The County will comply with all rules and regulations now in effect or hereafter promulgated by any agency of the State of California.
8. The State will agree that it will not exercise its right to surface entry for mineral extraction on three small parcels (as shown on Exhibit "D").
9. The maximum term of this agreement will be 46 years and 4 months beginning June 2, 1971.

A copy of the proposed agreement is on file in the Sacramento Office of the State Lands Division. The agreement and the entire transaction have been reviewed and approved by the Attorney General, who has written a letter of opinion stating that this transaction is exempt from the requirements of an environmental impact report as set forth in Section 6371 of the Public Resources Code.

IT IS RECOMMENDED THAT THE COMMISSION:

1. AUTHORIZE THE EXECUTION OF AN AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND SANTA CLARA COUNTY, SAID AGREEMENT BEING ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND MADE A PART HEREOF BY REFERENCE THERETO. SAID AGREEMENT WILL PROVIDE FOR THE ORDERLY DEVELOPMENT OF CERTAIN LANDS IN THE COUNTY OF SANTA CLARA DESCRIBED IN EXHIBITS "A" AND "B" ATTACHED AND BY REFERENCE MADE A PART HEREOF, SUBJECT TO A DISPUTE OF TITLE.
2. AUTHORIZE THE STATE LANDS DIVISION AND THE ATTORNEY GENERAL'S OFFICE TO TAKE OTHER STEPS NECESSARY IN RESOLVING THE TITLE DISPUTE TO THE BEST INTERESTS OF THE STATE OF CALIFORNIA, THE COUNTY OF SANTA CLARA, AND THE CITY OF PALO ALTO.

Attachments: Exhibits "A" and "B"

EXHIBIT "A"

## PALO ALTO YACHT HARBOR

All that land in the City of Palo Alto, Santa Clara County, California, shown as Parcel "A" on revised Exhibit "B", dated August 15, 1967, said land described as follows:

BEGINNING at the most easterly corner of Parcel "A" on Exhibit "A", dated May 2, 1966, thence along the north-easterly line of Parcel "A" the following courses:  
 North 350.00 feet, N. 15° 05' 00" E., 345.00 feet,  
 N. 64° 55' 00" W., 530.00 feet, N. 38° 15' 00" W., 600.00 feet,  
 N. 36° 39' 50" E., 45.00 feet, N. 51° 35' 00" E., 507.69 feet,  
 N. 38° 25' 00" W., 75.27 feet; thence leaving the easterly  
 line of Parcel "A" N. 25° 12' 22" E., 110.88 feet; thence

N. 57° 47' 01" E., 102.34 feet; thence  
 N. 68° 15' 59" E., 342.35 feet; thence  
 N. 60° 31' 07" E., 175.00 feet; thence  
 N. 83° 18' 30" E., 192.17 feet; thence  
 S. 71° 08' 27" E., 337.77 feet; thence  
 S. 73° 26' 41" E., 209.26 feet; thence  
 S. 61° 36' 53" E., 189.07 feet; thence  
 N. 62° 28' 23" E., 136.80 feet; thence  
 S. 54° 40' 00" E., 405.00 feet; thence  
 N. 35° 20' 00" E., 55.00 feet; thence  
 S. 54° 40' 00" E., 470.00 feet; thence  
 N. 35° 20' 00" E., 255.00 feet; thence  
 S. 54° 40' 00" E., 280.00 feet; thence  
 N. 20° 00' 00" E., 380.00 feet; thence  
 N. 07° 00' 00" W., 275.34 feet; thence  
 N. 20° 00' 00" E., 3500.00 feet; thence  
 S. 70° 00' 00" E., 350.00 feet; thence  
 S. 20° 00' 00" W., 4492.81 feet; thence

on a tangent curve to the right with a radius of 1000.00 feet through a central angle of 66° 54' 30", a distance of 1167.77 feet; thence S. 86° 54' 30" W., 617.27 feet; thence on a tangent curve to the left through a central angle of 100° 54' 30" with a radius of 100.00 feet, a distance of 176.12 feet; thence S. 14° 00' 00" E., 598.83 feet; thence S. 76° 00' 00" W., 886.94 feet; thence N. 14° 00' 00" W., 477.86 feet to the point of beginning.

EXHIBIT "B"

## PALO ALTO AIRPORT

All that land in the City of Palo Alto, Santa Clara County, California shown as Parcel "A" on Exhibit "A" dated May 2, 1966, said land described as follows:

COMMENCING at a 2 inch iron pipe marking the intersection of the centerline of Embarcadero Road and the previous common boundary between San Mateo County and Santa Clara County as referred to in Book 449, Official Records, page 537, Santa Clara County records; thence N.  $63^{\circ} 15'$  W., 47.40 feet to the northwesterly line of Embarcadero Road; thence N.  $51^{\circ} 37'$  E., 25.32 feet along the northwesterly line of Embarcadero Road to the TRUE POINT OF BEGINNING; thence East 1043.38 feet; thence North 350.00 feet; thence N.  $15^{\circ} 05' 00''$  E., 345.00 feet; thence N.  $64^{\circ} 55' 00''$  W., 530.00 feet; thence N.  $38^{\circ} 25' 00''$  W., 600.00 feet; thence N.  $36^{\circ} 39' 50''$  E., 45.00 feet; thence N.  $51^{\circ} 35' 00''$  E., 507.69 feet; thence N.  $38^{\circ} 25' 00''$  W., 2954.87 feet; thence S.  $50^{\circ} 57' 00''$  W., 711.04 feet; thence S.  $38^{\circ} 25' 00''$  E., 1770.17 feet; thence South 906.82 feet; thence East 60.00 feet; thence South 150.00 feet; thence East 42.00 feet; thence South 80.00 feet; thence East 232.00 feet; thence South 720.70 feet; thence S.  $17^{\circ} 08' 00''$  E., 314.60 feet; thence East 134.50 feet; thence S.  $38^{\circ} 23' 00''$  E., 342.33 feet to the northwesterly line of Embarcadero Road; thence N.  $51^{\circ} 37' 00''$  E., 349.10 feet to the point of beginning.