

MINUTE ITEM

This Calendar Item No. 25
was approved as Minute Item
No. 21 by the State Lands
Commission by a vote of 3
to 0 at its 9/20/76
meeting.

CALENDAR ITEM

9/76
WP 3981
LLP
PRC 3981

25.

COMMERCIAL LEASE AS PARTIAL
SETTLEMENT OF LITIGATION

APPLICANT: HKM Investments
2020 Marconi Avenue
Sacramento, California 95821

AREA, TYPE LAND AND LOCATION:
A 1.033-acre parcel and 80 circular parcels,
each 40 feet in diameter, containing a total
area of 2.308 acres for an aggregate of 3.341
acres, all on submerged land in Lake Tahoe
at South Lake Tahoe, El Dorado County.

LAND USE: Operation and maintenance of a pier and
the seasonal placement and maintenance of 80
buoys.

TERMS OF PROPOSED LEASE:
Initial period: 10 years, from May 19, 1976.
Renewal options: One successive period of 10
years.
Public liability insurance: \$500,000 per
occurrence for bodily injury
and \$500,000 for property
damage.

Special: 1. It has been contemplated in
negotiations concerning this lease that the
operation of the passenger cruise sternwheeler,
M. S. Dixie, from the subject facility is the
principal source of revenue for the lessee,
and as such has been taken into consideration
in the determination of the amount of rent to
be paid by the lessee as set forth in Section
3 of the lease.

It has been agreed that should the M. S. Dixie
cease to operate from the subject facility,
thereby ceasing to be the principal source of
revenue from the operation of the facility,
and should there be no other concession or
other source of income from the subject facility
either as a substitute for the operation of the
M. S. Dixie or in addition to such operation,
for which addition no adjustment to the rent
has been made, then upon the request of the
lessee accompanied by evidence in support of
the change of conditions, there shall be a

A 7

S 3

CALENDAR ITEM NO. 25.(CONTD)

reassessment by the lessor of the consideration to be paid by the lessee.

2. In lieu of a surety bond, lessee agrees to make lessor the beneficiary of a second Deed of Trust in the amount of \$20,000 on certain upland lots.

3. The area described in Parcel 2 of Section 4 of the lease document solely delimits the area within which the lessee is authorized to place and maintain 80 mooring buoys. It is not intended to be an area for the exclusive use and benefit of said lessee.

CONSIDERATION: \$6,000 back rent from May 19, 1973 through May 18, 1976; and \$12,000 per annum, thereafter, which sum is payable in four equal installments on July 1, August 1, September 1, and October 1; with the State reserving the right to fix a different rental on each fifth anniversary of the lease.

BASIS FOR CONSIDERATION:
Partial settlement of litigation.

PREREQUISITE TERMS, FEES AND EXPENSES:
Applicant is the owner of the upland. As this is a partial settlement of litigation, no fees are required to be received.

STATUTORY AND OTHER REFERENCES:
A. Public Resources Code: Div. 6, Parts 1 & 2.
B. Administrative Code: Title 2, Div. 3, Arts. 1, 2, 10 & 11.

OTHER PERTINENT INFORMATION:

1. HKM Investments, owner of the Timber Cove Lodge, which is located within the City of South Lake Tahoe along the shore of the Lake, filed suit against the City in September of 1974, seeking to quiet title to certain beach-front property waterward to the low water mark. Upon the request of the City of South Lake Tahoe, the State Lands Commission authorized the Office of the Attorney General to intervene in that litigation on behalf of the Commission at its meeting on April 30, 1975 (Minute Item 18) since part of the land in question is under the jurisdiction of the Commission.

The State intervened in August of 1975, and this proposed commercial lease is one result

1252

CALENDAR ITEM NO. 25. (CONTD)

of negotiation in settlement of that litigation. The issuance of this lease to HKM Investments would settle the part of that litigation involving the maintenance of the Timber Cove Marina (formerly the Conolley Pier), on the State-owned bed of the Lake. The part of the litigation involving the ownership of the upland beach and non-beach properties in question is currently under negotiation.

2. An Environmental Impact Report is not required. This transaction is within the purview of 2 Cal. Adm. Code 2907 (a) which exempts an existing structure or facility that is in an acceptable state of repair and there is no evidence of record to show injury to adjacent property; shoreline erosion, or other types of environmental degradation.
3. This project is situated on State land identified as possessing significant environmental values, pursuant to Public Resources Code 6370.1, and is classified in significant use category, Class B: Limited Use.

Staff review indicates that there will be no significant effect upon the identified environmental values. This is an existing facility for which no adverse comments have been received.

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

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL IMPACT REPORT HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF PRC 21085, 14 CAL. ADM. CODE 15100 ET SEQ., AND 2 CAL. ADM. CODE 2907.
2. FIND THAT GRANTING OF THE APPLICATION WILL HAVE NO SIGNIFICANT EFFECT UPON ENVIRONMENTAL CHARACTERISTICS IDENTIFIED PURSUANT TO SECTION 6370.1, ET SEQ. OF THE PUBLIC RESOURCES CODE.
3. APPROVE THE ISSUANCE OF A 10-YEAR COMMERCIAL LEASE AS PARTIAL SETTLEMENT OF LITIGATION TO HKM INVESTMENTS FROM MAY 19, 1976; WITH LESSEE'S OPTION TO RENEW FOR ONE SUCCESSIVE PERIOD OF 10-YEARS; IN CONSIDERATION OF BACK RENT IN THE AMOUNT OF \$6,000 FROM MAY 19, 1973 THROUGH MAY 18, 1976; ANNUAL RENT IN THE AMOUNT OF \$12,000 WHICH SUM IS PAYABLE IN FOUR EQUAL INSTALLMENTS AFTER THE FIRST ANNIVERSARY ON JULY 1,

CALENDAR ITEM NO. 25. (CONTD)

AUGUST 1, SEPTEMBER 1, AND OCTOBER 1; WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; AND WITH PROVISION OF A SECOND DEED OF TRUST IN THE AMOUNT OF \$20,000 IN LIEU OF A SURETY BOND; AND WITH PROVISION OF PUBLIC LIABILITY INSURANCE IN AMOUNTS OF \$500,000 PER OCCURRENCE FOR BODILY INJURY AND \$500,000 FOR PROPERTY DAMAGE, FOR THE OPERATION AND MAINTENANCE OF A PIER AND THE SEASONAL PLACEMENT AND MAINTENANCE OF 80 BUOYS ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment: Exhibit "A"

EXHIBIT "A"

W 503.772

Two parcels of submerged land in the State owned bed of Lake Tahoe, El Dorado County, State of California, said parcels also being within protracted Section 33, T13N, R18E, MDM and being more particularly described as follows:

PARCEL 1

COMMENCING at the northwest corner of Lot B as shown on that certain map entitled "BIJOU BEACH SUBDIVISION" recorded in Map Book B, page 92, records of said County; thence S 83° 49' 44" W a distance of 81.21 feet to the TRUE POINT OF BEGINNING;
thence N 19° 22' 06" W a distance of 23.50 feet;
thence S 70° 37' 54" W a distance of 4.50 feet;
thence N 19° 22' 06" W a distance of 337.00 feet;
thence N 70° 37' 54" E a distance of 4.50 feet;
thence N 19° 22' 06" W a distance of 615.00 feet;
thence N 70° 37' 54" E a distance of 93.00 feet;
thence S 19° 22' 06" E a distance of 82.00 feet;
thence S 70° 37' 54" W a distance of 57.00 feet;
thence S 19° 22' 06" E a distance of 683.50 feet;
thence N 70° 37' 54" E a distance of 22.00 feet;
thence S 19° 22' 06" E a distance of 7.00 feet;
thence N 70° 37' 54" E a distance of 20.00 feet;
thence S 19° 22' 06" E a distance of 32.00 feet;
thence S 70° 37' 54" W a distance of 42.00 feet;
thence S 19° 22' 06" E a distance of 19.50 feet;
thence N 70° 37' 54" E a distance of 40.50 feet;
thence S 19° 22' 06" E a distance of 69.00 feet;
thence S 70° 37' 54" W a distance of 26.00 feet;
thence S 19° 22' 06" E a distance of 58.50 feet;
thence S 70° 37' 54" W a distance of 6.00 feet;
thence S 19° 22' 06" E a distance of 124.00 feet;
thence S 70° 37' 54" W a distance of 44.50 feet;
thence N 19° 22' 06" W a distance of 100.00 feet to the true point of beginning.

PARCEL 2.

COMMENCING at the northwest corner of Lot B as shown on that certain map entitled "BIJOU BEACH SUBDIVISION" recorded in Map Book B, page 92, records of said County; thence S 83° 49' 44" W a distance of 81.21 feet to the TRUE POINT OF BEGINNING;
thence N 19° 22' 06" W a distance of 23.50 feet;
thence S 70° 37' 54" W a distance of 4.50 feet;
thence N 19° 22' 06" W a distance of 337.00 feet;
thence N 70° 37' 54" E a distance of 4.50 feet;
thence N 19° 22' 06" W a distance of 615.00 feet;
thence S 70° 37' 54" W a distance of 433.48 feet;
thence S 20° 17' 19" E a distance of 1002.14 feet;
thence N 69° 42' 41" E a distance of 417.44 feet;
thence N 19° 22' 06" W a distance of 19.81 feet to the true point of beginning.

The bearings used in this description are based on the westerly line of said Lot B, being N 15° 55' W as shown on said subdivision map.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark.

END OF DESCRIPTION.

Prepared

Shirley Webster

Checked

Donald K. Fullerton

Reviewed

J.R. Brown

Date

9/1/76