

MINUTE ITEM

This Calendar Item No. 45
was approved as Minute Item
No. 45 by the State Lands
Commission by a vote of 3
0 at its 9/30/76
meeting.

MINUTE ITEM

9/30/76
LHG

45. PROPOSAL OF CITY OF LONG BEACH TO EXPEND TIDELAND OIL REVENUES FOR PURCHASE OF CERTAIN BEACH LOTS IN THE CENTRAL BEACH AREA OF THE CITY OF LONG BEACH, LOS ANGELES COUNTY - W 10324.

During consideration of Calendar Item 45 attached, Mr. N. Gregory Taylor, Assistant Attorney General, stated that a proposed stipulation has been reached for the acquisition of the property subject to approval by the other parties. Chairman Kenneth Cory stated he did not feel the Commission should proceed with this item until all parties are in agreement.

Mr. Clemons Turner, Deputy City Attorney, representing the City of Long Beach, appeared. He stated the City did not want to commit themselves to expend any funds and proceed with this acquisition unless they are assured they can expend these tideland revenues.

Mr. Taylor explained the staff is in agreement with the maximum value of the property, provided there is no Gion Easement on it, the value being slightly in excess of \$2,000,000. However, he indicated the question is how much should be discounted for the effect of a Gion Easement if the court finds it to exist. Mr. Taylor explained the terms of the compromise: (1) the landowner will be advanced the first \$1.1 million; 2) \$442,000 will be put in an interest bearing impound bank account, they will litigate the question of whether the Gion Easement exists; and if it does, how much effect it has on the value of the property. He further explained the one loose end of the proposed stipulation is how much money will be advanced to the landowner. Mr. Taylor said Mr. Taper's attorneys are willing to recommend to their client that \$442,000 be placed in a bank account, and the amount advanced to the private landowner be reduced to \$1.1 million. A lengthy discussion followed regarding the question of the easement and the terms of the proposed stipulation.

Mr. Hodge Dolle, attorney for Mr. Taper, appeared. He stated that the appraiser for the Lands Commission is in agreement with both the City's and owner's appraisals. He pointed out the only question is whether the property is encumbered by the Gion Easement. Mr. McCausland questioned under what authority is this item currently before the Commission. Mr. Turner replied that he had asked the Attorney General's Office to place it on the agenda. Mr. McCausland also asked what official action has been taken by the City with regard to this property. Mr. Turner stated to this knowledge there has been no action. Mr. McCausland asked if the City's action will be required prior to acquiring the property. Mr. Turner stated it would.

Mr. Taylor pointed out the question at hand is, will the parties hold to the stipulation made today concerning the amount of money to be held back and the creation of a bank account. The staff made the decision to ask the Commission to be the first

A 58
S 31

MINUTE ITEM 45. (CONTD)

to act if all the parties were in agreement, and it is now up to the Commission whether or not to approve it subject to the other parties' approval. Mr. McCausland asked that the stipulation set forth the other participating funds involved. Ms. Katherine E. Stone, Deputy Attorney General, explained that the Park and Recreation and City Incinerator Bond Funds would be exhausted before the tideland revenue is used. Mr. McCausland stated that if the use of those funds is made part of the stipulation, he would be willing to approve the item. Chairman Cory stated the item would be approved with the stipulation the tidelands money would be used last.

Upon motion duly made and carried, the following resolution was approved as amended by a vote of 3-0:

THE COMMISSION:

1. DETERMINES THAT THE EXPENDITURE OF A MAXIMUM OF \$618,000 TOWARDS THE ACQUISITION OF THE TAPER PROPERTY IS IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 138/64, 1ST E.S.; SUBJECT TO CONDITIONS THAT THE PURCHASE CONFORM IN ESSENTIAL DETAILS TO THE INFORMATION HERETOFORE SUBMITTED TO THE COMMISSION AND THAT STATE DEPARTMENT OF PARKS AND RECREATION AND CITY INCINERATOR BOND FUNDS WILL BE EXHAUSTED BEFORE ANY TIDELAND REVENUES ARE EXPENDED TO SATISFY A FINAL JUDGMENT IN AN EMINENT DOMAIN PROCEEDING.
2. AUTHORIZES THE STAFF AND THE OFFICE OF THE ATTORNEY GENERAL TO ENTER INTO A STIPULATION BETWEEN THE CITY OF LONG BEACH, SIDNEY MARK TAPER, AS TRUSTEE AND THE BARRY HUGH TAPER TRUST UNDER THE WILL OF AMELIA TAPER AND THE STATE, GENERALLY IN THE FORM OF THE DRAFT WHICH IS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND INCORPORATED HEREIN BY REFERENCE.
3. AUTHORIZES THE STAFF AND OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL ACTION NECESSARY TO IMPLEMENT THE FOREGOING INCLUDING, BUT NOT LIMITED TO, LITIGATION.

Attachment:
Calendar Item 45 (2 pages)

CALENDAR ITEM

45.

9/76
LHG
W. 10324

PROPOSAL OF THE CITY OF LONG BEACH
TO EXPEND TIDELAND OIL REVENUES FOR
THE PURCHASE OF CERTAIN BEACH LOT
IN CENTRAL BEACH AREA OF THE CITY
OF LONG BEACH

On April 27, 1967, the State Lands Commission determined that the expenditure of \$2,125,000 from the City of Long Beach's share of tideland oil revenues for acquisition of beach lots in the East and Central Areas of the City was in accordance with the provisions of Chapter 138, Statutes of 1964, 1st Extraordinary Session (provided that the purchases conform in essential details to the information submitted to the Commission).

Upon acquisition, the City stated the lots would be devoted to beach, game and other leisure and recreational activities. Specific authority for such acquisitions is set forth in Sections 6(d) and 6(f) of said Chapter 138.

The City is now requesting authorization to expend tidelands revenues towards the acquisition of the Taper parcel comprising 3.577 acres at Ocean Boulevard and 36th Place.

Pursuant to Chapter 2000, Statutes 1957, the City, the State and private parties entered into Boundary Line Agreement No. 87, recorded March 19, 1968, in the office of the County Recorder for the County of Los Angeles at Book D3944, pages 126, et seq., fixing the location of the ordinary High Water Mark. Said Boundary Line Agreement did not, however, affect the location of any Gion easement. The City proposes to acquire this property by a stipulated condemnation proceeding to determine whether a recreational easement of the type described in Gion v. City of Santa Cruz, 2 Cal. 3d 27 (1970) exists over a portion of the property and if so, the amount, if any, the fair market value of said property is diminished by virtue of such easement. A current appraisal which has been reviewed by staff, concludes that the fair market value, excluding the effect of any Gion easement is \$2,048,000.

Pursuant to said stipulation this amount is the maximum sum to be paid for the property by the City. In order to obtain an order of immediate possession and proceed to trial it is necessary for the City to obtain authorization to expend a maximum of \$618,000 of tideland trust revenues towards the acquisition of the property. The remaining funds will be supplied by the State

A 58
S 31

(Rev. 9/28/76)

CALENDAR ITEM NO. 45.(CONTD)

Department of Parks and Recreation and City Bond funds. These two funds will be exhausted before any tideland revenues are expended.

Staff has reviewed the proposed stipulation and appraisal for the property and agree that the overall acquisition is reasonable. The Office of the Attorney General has reviewed the matter and concurs with the staff's conclusion.

Exhibit A. Site Map.

IT IS RECOMMENDED THAT:

1. THE COMMISSION DETERMINE THAT THE EXPENDITURE OF A MAXIMUM OF \$618,000 TOWARDS THE ACQUISITION OF THE TAPER PROPERTY IS IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 138764 1ST E.S.; SUBJECT TO CONDITION THAT THE PURCHASE CONFORM IN ESSENTIAL DETAILS TO THE INFORMATION HERETOFORE SUBMITTED TO THE COMMISSION;
2. AUTHORIZE THE STAFF AND OFFICE OF THE ATTORNEY GENERAL TO ENTER INTO A STIPULATION BETWEEN THE CITY OF LONG BEACH, SIDNEY MARK TAPER, AS TRUSTEE OF THE BARRY HUGH TAPER TRUST UNDER THE WILL OF AMELIA TAPER AND THE STATE, GENERALLY IN THE FORM OF THE DRAFT WHICH IS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND INCORPORATED HEREIN BY REFERENCE;
3. AUTHORIZE THE STAFF AND OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL ACTION NECESSARY TO IMPLEMENT THE FOREGOING INCLUDING, BUT NOT LIMITED TO, LITIGATION.

(Rev. 9/28/76)

1319