

MINUTE ITEM 31

APPROVAL OF SUBLEASE

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PRC 4688

APPLICANT: Anza Shareholders' Liquidating Trust
433 Airport Boulevard
Burlingame, California 94010

PROPOSED SUBLESSEE: American International Skate Park Inc.
412 Riviera Drive
San Rafael, California 94901

AREA, TYPE LAND AND LOCATION: Approximately 97,000 square feet (2.22
acres), filled land adjoining San Francisco
Bay, Burlingame, San Mateo County.

LAND USE: Commercial recreational skateboard park.

STATUTORY AND OTHER REFERENCES:
A. Public Resources Code: Div. 6, Parts 1 & 2,
Title 2, Div. 3,
Arts. 1, 2, 6.5,
10 & 11.
B. Administrative Code:

BACKGROUND: Under Calendar Item No. 24, and under Minute
Item No. 26, dated July 6, 1972, the Commission
approved Anza Pacific Boundary Settlement
and Exchange Agreement No. 131 hereinafter,
referred to as Agreement No. 131, and the
issuance of 12 State leases.

Pursuant to said agreement, the State leased
for 66 years to Anza Pacific the 46 acres
confirmed in State ownership. The initial
rental consideration for said leases through
June 30, 1988 is \$18,626 per annum, plus
bond retirement, lagoon construction and
the completion of site improvements on
State lands. The State lease of the 46
acres for administrative convenience in
subleasing was accomplished by the issuance
of separate leases. The rental amount is
to be received by the State through June 30,
1988 and was prorated to each lease.

CALENDAR ITEM NO. 31. (CONTD)

Under Calendar Item No. 47, dated March 25, 1976, the Commission heard and approved an assignment of the State leases from the Anza Pacific Corporation to Anza Shareholders' Liquidating Trust. Anza Pacific was reorganized as a liquidating trust for financial reasons.

All subletting of State lands by Anza is subject to Commission consent.

CURRENT SUBLEASE APPROVAL REQUEST:

Anza Shareholders' Liquidating Trust to American International Skate Park, Inc.; an approximate 97,000 square foot (2.22 acres) site at Burlingame; San Mateo County. Existing rent of \$4,250 per annum to the State, to continue until June 30, 1988, after which time, the rental to the State will be one-half of the net income to Anza or its successor.

This sublease covers a portion of the land described in PRC 4686.1. The subleased premises will be used for the purpose of operating a commercial skateboard facility.

The general terms of the sublease are as follows:

Term: 2 years from June 1, 1978.

Rent: (to Anza) \$3,600 per month.

Renewal options: 2 additional terms, 8 years each.

Insurance: Public liability: \$1,000,000 for any one occurrence for personal injuries.

Property damage; \$500,000. It is noted herein that paragraph 6, of the sublease, requires all insurance policies to name the State Lands Commission as additional insured.

Other: Sublease subject to State ground lease PRC 4688.1.

CALENDAR ITEM NO. 37. (CONTD)

The terms of Agreement No. 131 included, the adoption of a master plan as to land use of the State property. The uses therein were agreed, as to the subject premises, to be for an underground parking garage with overhead landscaping. The parking facility was to be integrally connected with a convention center on adjoining land owned by the applicant. It appears now that the likelihood of a convention center on the applicant's property is slight; the applicant has therefore elected, subject to Commission approval, to develop the property for income-producing purposes. The staff believes that the applicant's proposal is reasonable, and that it coincides with those provisions of Agreement No. 131, which permit a change of use upon mutual concurrence between Anza and the Commission.

A right of first refusal is included in the sublease. It provides that the sublessee may purchase the leasehold interests of Anza, under certain conditions. Any such sale would be referred to the Commission for approval.

Environmental concerns on the proposed development have been handled by the City of Burlingame as lead agency. The applicant has provided a Negative Declaration and Notice of Determination on the project as issued by the city.

Said Notice states that the proposed development may possibly have a significant effect on the environment. The staff has been advised that the declaration was made on the basis that a skate park use herein may be incompatible with future development on adjoining land.

The staff holds this to mean that skate park use is not itself adverse to the environment but may be inharmonious with subsequent uses on neighboring parcels. Since the City of Burlingame has approved this project the staff believes that the declaration on the Notice of Determination relates

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more to planning and zoning matters than to the environment.

This project is situated on lands not identified as possessing significant environmental values pursuant to Public Resources Code 6370.1.

OTHER PERTINENT INFORMATION:

According to the applicant, this project requires approval only from the State Lands Commission and from the City of Burlingame. The applicant states that the proposed work is exempt from the approval of other agencies.

Anza's request for this sublease approval has been reviewed and considered acceptable. The terms of the proposal appear to be consistent with the provisions of Agreement No. 131 and State Lease PRC 4688.1.

BACKGROUND HISTORY:

In 1969, the State Lands Commission and the Office of the Attorney General became aware of filling and reclamation activity in a 146-acre parcel in Burlingame on the west side of San Francisco Bay. The State Lands Commission and the Office of the Attorney General took action to halt the filling operations and began negotiations to perfect the title within the 146-acre parcel.

In the course of the development, Anza Pacific had already successfully petitioned the Burlingame City Council for the formation of Reclamation District 2097. The Reclamation District had issued bonds in the amount of \$1,964,000. The total bond service charge was \$2,598,968. These bonds were scheduled for complete retirement in 1983. Two additional series of bonds had been authorized and substantially issued. The first was in the amount of \$1,207,627 of 1915 improvements bonds. An additional \$94,500 was outstanding in 1911 improvement act bonds. The 2 bond issues were scheduled to be repaid completely by 1988. In addition to the bonded indebtedness, there were trust deeds against the

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property) in the amount of \$2,910,000. In the event of default by Anza Pacific Corporation, it was the opinion of the Attorney General that the State would be liable for the indebtedness against the property. As a part of the final settlement agreement, which was approved by the State Lands Commission in June of 1972, the Anza Pacific Corporation and Transamerica Title Company agreed to take full responsibility and retire all the bonded indebtedness and trust deed liens. Thus, the 2 corporations assumed full responsibility for \$6,811,095 in debts that could have become liens against the State property.

In addition to the agreement to retire the bonded indebtedness and trust deed liens, the State gained clear title to 46 acres within the 146-acre site. Anza additionally dedicated a 25'-wide strip around the perimeter of the 146-acre parcel for public use. Anza at its sole expense, created a 12-acre lagoon within the property which passed to the State. Anza and the County of San Mateo, also established a small fishing park on the southeasterly corner of the area.

The sublease for the Commission covers a portion of one of the parcels received by the State in the 1972 transaction. It is only the third sublease which Anza has been able to provide for the properties. Anza, without benefit of income from the properties, has been retiring the bonded indebtedness and the trust deed liens on the entire property.

EXHIBITS:

- A. Land Description.
- B. Location Map.
- C. Negative Declaration.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS NOT BEEN PREPARED FOR THIS PROJECT BUT THAT A NEGATIVE DECLARATION HAS BEEN PREPARED BY THE CITY OF BURLINGAME ON NOVEMBER 23, 1977.
2. CERTIFY THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED IN THE NEGATIVE DECLARATION.

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3. DETERMINE THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.
4. APPROVE, BY ENDORSEMENT, THE 2-YEAR SUBLEASE TO AMERICAN INTERNATIONAL SKATE PARK, INC., IN CONSIDERATION OF THE STATE BEING NAMED AS ADDITIONAL INSURED IN PUBLIC LIABILITY INSURANCE IN THE AMOUNT OF \$1,000,000 FOR ANY ONE OCCURRENCE FOR PERSONAL INJURY AND \$500,000 FOR PROPERTY DAMAGE; STATE REVIEW OF ANY SALE OF THE SUBLESSOR'S LEASEHOLD INTEREST, AND OTHERWISE SUBJECT TO THE TERMS AND CONDITIONS OF PRC 4688.1; FOR A SKATE PARK AND RELATED PURPOSES, ON THE LAND DESCRIBED IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.
5. AUTHORIZE THE EXECUTION OF ALL DOCUMENTS NECESSARY TO EFFECTUATE THESE DETERMINATIONS, CERTIFICATIONS AND APPROVALS.

Attachment: Exhibit "A"

EXHIBIT "A"

WP 4688

All that certain real property wit in the City of Burlingame, County of San Mateo, State of California more particularly described as follows:

BEGINNING at the southwesterly corner of Lot No. 3, within Block No. 6, which point of beginning is on the northeasterly right-of-way line of Airport Boulevard, as said Lot, Block, and Boulevard are shown on that certain map entitled, "ANZA AIRPORT PARK - UNIT NO. 6, BURLINGAME, SAN MATEO COUNTY, CALIFORNIA," recorded in Volume 70 of Maps at page 34, February 27, 1970, Official Records of San Mateo County, California; thence from said point of beginning, N 4° 15' 37" E, 293.37 feet along the northwesterly line of said Lot No. 3 to the northwesterly corner of said Lot No. 3; thence N 0° 16' 59" W, 238.95 feet; thence N 89° 43' 01" E, 326.94 feet; thence S 4° 15' 37" W, 239.70 feet to the northeasterly corner of Lot No. 5, within said Block No. 6; thence S 4° 11' 30" W, 318.27 feet along the southeasterly line of said Lot No. 5 to the southeasterly corner of said Lot No. 5, on the said northeasterly right-of-way line of Airport Boulevard; thence along said northeasterly right-of-way line of Airport Boulevard, N 85° 44' 23" W, 307.00 feet to the point of beginning.

END OF DESCRIPTION

Prepared *John R. Kinnick* Checked *[Signature]*
 Reviewed *Frank J. Stinch* Date *11/11/78*