

MINUTE ITEM

17. TRANSFER OF STATE'S INTEREST IN LEASE P.R.C. 758.1 (NUNES BROTHERS)
TO THE CITY OF SAUSALITO, MARIN COUNTY - W.O. 3595.

After consideration of Calendar Item 11 attached, and upon motion duly
made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO APPROVE AND TO RECOMMEND TO THE
STATE BOARD OF CONTROL A CLAIM ON BEHALF OF THE CITY OF SAUSALITO IN THE
AMOUNT OF \$837.68, SAID AMOUNT REPRESENTING RENTALS COLLECTED BY THE
STATE UNDER LEASE P.R.C. 758.1 AND NOW PROPERLY PAYABLE TO THE CITY OF
SAUSALITO. SAID CLAIM IS TO BE PAYABLE FROM THE STATE LANDS ACT FUND.

Attachment

Calendar Item 11 (2 pages)

CALENDAR ITEM

11.

TRANSFER OF STATE'S INTEREST IN LEASE P.R.C. 758.1 (NUNES BROTHERS) TO THE CITY OF SAUSALITO, MARIN COUNTY - W.O. 3595.

On April 1, 1953, the State Lands Commission entered into a 15-year lease with Nunes Brothers, covering tidelands fronting on the City of Sausalito. Effective September 11, 1957, the leased area was included in a grant to the City of Sausalito under the provisions of Ch. 791/57. By interpretation under past similar circumstances, it was assumed that the City would acquire the State's interest as lessor in the Nunes Brothers' lease with the effective date of the grant, with a corollary assumption that rentals payable under the lease in the amount of \$418.84 annually would be payable to the City subsequent to said effective date. However, Section 3 of Ch. 791/57 provided:

"State Lands Commission shall at the cost of the grantee survey, monument, plat and record in the office of the recorder of Marin County the area of State lands described in this act. Said City shall enter into a contract with the State Lands Commission for surveying, monumenting and platting the area of State lands granted by this act, and shall upon submission of invoices by the State Lands Commission pay said costs as an underlying condition precedent to the grant of lands hereunder." (Underling added).

Thus, the language of the statute raised a question as to the effective date of the grant, and hence the date of transfer of the lease.

In view of the foregoing, the Commission retained possession of the lease and continued to collect rentals thereunder as of lease anniversary dates, April 1, for the period 1958 through 1960. Additionally, the Commission had collected the last year's rental at the time of execution of the lease.

Recently, the City of Sausalito, through its City Manager, requested that the State's interest in the lease be transferred to the City, and that rents paid to the State subsequent to the effective date of the granting statute, September 11, 1957, be paid over to the City.

In acting on this request, the staff determined that the survey had been completed and paid for in August of 1959; therefore that statutory provisions had been met in any event, and that the lease was properly transferable. However, there remained a question as to the effective date of the grant, and hence as to the date of transfer and the proper distribution of the rents collected by the Commission subsequent to September 1957. This matter was referred to the office of the Attorney General which, by an informal opinion dated July 20, 1960, advised that the Lands Commission should retain rents under the Nunes Brothers' lease for the period prior to the payment of costs of survey to the State Lands Commission by the City of Sausalito; further, that any rentals for the period subsequent to such payment, plus the last year's rent, which was paid in advance, should be paid to the City.

CALENDAR ITEM 11. (CONTD.)

In view of the foregoing, the following actions are in order:

1. Transfer of Lease P.R.C. 758.1 to the City of Sausalito. (Accomplished)
2. Payment to the City of the following rentals collected by the State Lands Commission:

Annual Rent Due 4-1-60	\$418.84
Last Year's Rent Paid in Advance	418.84
Amount Due City of Sausalito	<u>\$837.68</u>

3. Recommendation to the State Board of Control that a claim on behalf of the City of Sausalito in the amount of the rentals due the City be approved for payment from the State Lands Act Fund, to which fund said rentals were remitted.

IT IS RECOMMENDED THAT THE EXECUTIVE OFFICER BE AUTHORIZED TO APPROVE AND TO RECOMMEND TO THE STATE BOARD OF CONTROL A CLAIM ON BEHALF OF THE CITY OF SAUSALITO IN THE AMOUNT OF \$837.68, SAID AMOUNT REPRESENTING RENTALS COLLECTED BY THE STATE UNDER LEASE P.R.C. 758.1 AND NOW PROPERLY PAYABLE TO THE CITY OF SAUSALITO. SAID CLAIM IS TO BE PAYABLE FROM THE STATE LANDS ACT FUND.