

MINUTE ITEM

11.

11. APPLICATION FOR RECREATIONAL PIER PERMIT, TIDE AND SUBMERGED LANDS OF TOMALES BAY, MARIN COUNTY; TEACHERS BEACH ASSOCIATION - W.O. 320.306.

The Executive Officer reported in connection with Calendar Item 13 attached that a question had arisen requiring further review of certain legal principles specifically related to the physical facts recited in connection with the application; he recommended that these questions be referred by the staff to the Office of the Attorney General for review and for a report at the next regular meeting of the Commission.

Mr. Forrest E. Macomber, attorney and member of the Teachers Beach Association, spoke on behalf of the applicant.

The Executive Officer advised the Commission that certain legal questions had arisen relating to the specific facts in connection with the application and recommended that the Commission defer action until the September meeting to permit review of the legal aspects of the transaction by the Office of the Attorney General. The Chairman stated that the matter will be disposed as recommended.

Attachment:

Calendar Item 13 (1 page)

CALENDAR ITEM

13.

APPLICATION FOR RECREATIONAL PIER PERMIT, TIDE AND SUBMERGED LANDS OF TOMALES BAY, MARIN COUNTY; TEACHERS BEACH ASSOCIATION - W.O. 320.306.

An application has been received from Teachers Beach Association for a recreational pier permit for the use of tide and submerged lands of Tomales Bay, Marin County.

Teachers Beach Association is a group of 12 individuals who purchased a 10-acre parcel of land near Shell Beach on Tomales Bay, north of Inverness. After the land was surveyed, each individual selected a lot which was conveyed to him as an individual. A strip of land leading to the beach and a beachfront strip were then set aside in common ownership for the use of the members (see Exhibit "A"). The property owners are also directors of the Association, which filed Articles of Incorporation on October 13, 1955, as a nonprofit corporation.

A recreational pier permit would provide the users with a 10-year use permit at no cost, the only payment being a \$5 statutory application fee. Teachers Beach Association maintains that as a nonprofit corporation it is entitled to a recreational pier permit within the meaning of Section 6503 of the Public Resources Code. The staff has taken the position that Teachers Beach Association does not qualify and is not entitled to a recreational pier permit within the meaning of the Code section. Rather, the erection of such a pier and its use by members of this organization place it in a category which comes within the scope of a commercial lease, as differentiated from a recreational pier permit issued to an individual littoral owner for his exclusive private and personal use. In this instance rental for a commercial lease would be the minimum of \$150 annually.

In similar situations in the past the Commission has authorized the issuance of a commercial lease. This policy has been supported by an opinion of the Attorney General dated February 20, 1961, in regard to the Del Monte Properties case (see Exhibit "B"). Staff Counsel has also prepared an opinion (see Exhibit "C") with respect to the instant Teachers Beach application, which opinion maintains that Section 6503 of the Public Resources Code is not applicable to the Teachers Beach Association. The Association contends the Attorney General's opinion is inapplicable and questions Staff Counsel's interpretation of the Code section.

The Association was advised that its application for a recreational pier permit would be submitted to the Commission with a staff recommendation that it be rejected.

IT IS RECOMMENDED THAT THE EXECUTIVE OFFICER BE AUTHORIZED TO REJECT THE APPLICATION OF TEACHERS BEACH ASSOCIATION FOR A RECREATIONAL PIER PERMIT FOR THE USE OF TIDE AND SUBMERGED LANDS AT TOMALES BAY ON THE GROUNDS THAT SUCH PERMIT IS NOT AUTHORIZED BY PUBLIC RESOURCES CODE SECTION 6503.