

MINUTE ITEM

33. ATTEMPTED GARNISHMENT OF STATE TIDELANDS REVENUES WHICH THE CITY OF LONG BEACH IS REQUIRED TO TRANSMIT TO THE STATE - W.O. 2323.4.9.

After consideration of Supplemental Calendar Item 31 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE STATE LANDS COMMISSION RATIFIES, APPROVES AND CONFIRMS THE ARRANGEMENT WITH THE CITY OF LONG BEACH PURSUANT TO WHICH:

1. THE CITY OF LONG BEACH WILL FORWARD TO THE STATE OF CALIFORNIA THE FULL AMOUNT OF TIDELAND OIL AND DRY GAS REVENUE DUE TO THE STATE WITHOUT DEDUCTING THEREFROM ANY SUMS SOUGHT TO BE COLLECTED UNDER THE PROVISIONS OF SECTION 710 OF THE CODE OF CIVIL PROCEDURE, BY ANY ALLEGED OR JUDGMENT CREDITORS (PARTICULARLY ANY SUMS NOW OR HEREAFTER SOUGHT TO BE COLLECTED ON BEHALF OF HOWARD E. SHOEMAKER, SAN DIEGO SUPERIOR COURT CASE NO. 238691);
2. THAT IF ANY FINAL JUDGMENT REQUIRES THE CITY, ITS OFFICIALS OR EMPLOYEES, TO PAY ANY SUM IN CONNECTION WITH THE CASE OF HOWARD E. SHOEMAKER, ET AL., VS. STATE OF CALIFORNIA, SAN DIEGO SUPERIOR COURT CASE NO. 238691, THE CITY IS AUTHORIZED TO DEDUCT ANY AMOUNT THAT IT OR ANY OF ITS OFFICIALS OR EMPLOYEES ARE REQUIRED TO PAY FROM ANY FUTURE OIL OR DRY GAS REVENUES DUE TO THE STATE OF CALIFORNIA; AND
3. THAT THE STATE OF CALIFORNIA WILL DEFEND THE CITY, ITS OFFICIALS OR EMPLOYEES, IN ANY ACTION FILED AGAINST THEM BECAUSE OF THEIR FAILURE TO MAKE PAYMENT TO THE SAN DIEGO SUPERIOR COURT ON BEHALF OF HOWARD E. SHOEMAKER, ET AL., PURSUANT TO FILINGS UNDER SECTION 710 OF THE CODE OF CIVIL PROCEDURE;

ALL AS MORE PARTICULARLY SET FORTH IN THE ATTORNEY GENERAL'S LETTER DATED OCTOBER 28, 1963, TO THE LONG BEACH CITY ATTORNEY.

Attachment

Supplemental Calendar Item 31 (2 pages)

SUPPLEMENTAL CALENDAR ITEM

31.

ATTEMPTED GARNISHMENT OF STATE TIDELANDS REVENUES WHICH THE CITY OF LONG BEACH IS REQUIRED TO TRANSMIT TO THE STATE, - W.O. 2323.4.9.

On about October 7, 1963, and allegedly pursuant to the provisions of Section 710 of the Code of Civil Procedure, Mr. Howard Shoemaker filed with the Auditor of the City of Long Beach an Abstract of Judgment and an Affidavit in an attempt to garnish State tidelands revenues in the custody of the City of Long Beach.

Previously, Mr. Shoemaker, in the case entitled Howard E. Shoemaker, individually, and as guardian of the person and estate of Lucille Ella Shoemaker, an incompetent person, vs. the State of California, San Diego Superior Court Case No. 238681, had recovered a Judgment in the sum of \$650,000 for personal injuries arising from a collision with a vehicle driven by a California Highway Patrolman. The State insurance policy had a maximum coverage of \$250,000, and the 1963 Legislature appropriated an additional \$350,000, provided that its acceptance, together with the insurance, would constitute a release of all further claims against the State. Plaintiff chose not to accept this amount. Instead, he seeks to satisfy his Judgment out of State tidelands revenues.

The Attorney General's office is of the opinion that the tidelands oil and gas revenues which the City of Long Beach is required to remit to the State pursuant to the provisions of Chapter 29, Statutes of 1956, 1st E.S., and the Stipulation and Judgment heretofore filed in the case of People vs. City of Long Beach, Los Angeles Superior Court Case No. 649466, are not subject to garnishment under the provisions of Section 710 of the Code of Civil Procedure.

As a precautionary measure, the City of Long Beach has requested assurance that it will be protected against any possible liability occasioned by the City's failure to honor the attempted garnishment under Section 710. Consequently, by letter dated October 23, 1963, the Attorney General, with the knowledge and consent of the members of the State Lands Commission, agreed to indemnify the City of Long Beach, its officials and employees, against any possible liability incurred because of the City's failure to make payment to the San Diego Superior Court pursuant to the alleged garnishment under Section 710 of the Code of Civil Procedure filed against the State of California by Howard E. Shoemaker. At its first regular meeting after such action, the State Lands Commission is requested to ratify and confirm its approval of this indemnification arrangement.

IT IS RECOMMENDED THAT THE STATE LANDS COMMISSION RATIFY, APPROVE AND CONFIRM THE ARRANGEMENT WITH THE CITY OF LONG BEACH PURSUANT TO WHICH:

1. THE CITY OF LONG BEACH WILL FORWARD TO THE STATE OF CALIFORNIA THE FULL AMOUNT OF TIDELAND OIL AND DRY GAS REVENUE DUE TO THE STATE WITHOUT DEDUCTING THEREFROM ANY SUMS SOUGHT TO BE COLLECTED UNDER THE PROVISIONS OF SECTION 710 OF THE CODE OF CIVIL PROCEDURE, BY

SUPPLEMENTAL CALENDAR ITEM 31. (CONTD.)

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HEREAFTER SOUGHT TO BE COLLECTED ON BEHALF OF HOWARD E. SHOEMAKER,
SAN DIEGO SUPERIOR COURT CASE NO. 238691);

2. THAT IF ANY FINAL JUDGMENT REQUIRES THE CITY, ITS OFFICIALS OR
EMPLOYEES, TO PAY ANY SUM IN CONNECTION WITH THE CASE OF HOWARD E.
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710 OF THE CODE OF CIVIL PROCEDURE;

ALL AS MORE PARTICULARLY SET FORTH IN THE ATTORNEY GENERAL'S LETTER DATED
OCTOBER 28, 1963, TO THE LONG BEACH CITY ATTORNEY.