

MINUTE ITEM

35. APPROVAL OF BOUNDARY AGREEMENT IN ORANGE COUNTY BETWEEN THE CITY OF NEWPORT BEACH, COAST CAPITAL, INC., AND THE STATE OF CALIFORNIA - W.O. 5160, B.L.A. 54.

After consideration of Calendar Item 10 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO EXECUTE A BOUNDARY AGREEMENT WITH COAST CAPITAL, INC., THE CITY OF NEWPORT BEACH, AND THE STATE OF CALIFORNIA, A COPY OF WHICH IS ATTACHED AS EXHIBIT "A" AND HEREBY MADE A PART HEREOF, FIXING THE BOUNDARY OF GRANTED STATE TIDE AND SUBMERGED LANDS ALONG THE SHORE OF NEWPORT BAY, AND AS SHOWN ON "MAP OF LANCASTER'S ADDITION TO NEWPORT BEACH" ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION.

Attachment:

Calendar Item 10 (5 pages)

CALENDAR ITEM

10.

APPROVAL OF BOUNDARY AGREEMENT IN ORANGE COUNTY BETWEEN THE CITY OF NEWPORT BEACH, COAST CAPITAL, INC., AND THE STATE OF CALIFORNIA - W.O. 5160.

At the request of the Title Insurance and Trust Company, Coast Capital, Inc., asked the State Lands Division to enter into a boundary agreement fixing the boundary line along a portion of the shore in Newport Bay. Inasmuch as Chapter 494 of the Statutes of 1919 and Chapter 70 of the Statutes of 1927 granted these tide and submerged lands to the City of Newport Beach, the City and Coast Capital, Inc., will be the principal parties concerned, with the State entering into the agreement as an interested third party. The original waterway was dredged to form the present channel, known as "The Rhine". A comparison of the landward boundary of this waterway with old charts shows no reason to object to accepting this line as the fixed boundary, and both the City of Newport Beach and Coast Capital, Inc., are agreeable to the location of the agreed line.

The boundary agreement attached as Exhibit "A" is acceptable to both Coast Capital, Inc., and the City of Newport Beach. The office of the Attorney General previously approved boundary agreements in this form, and Staff Counsel has determined this agreement to be legally sufficient.

IT IS RECOMMENDED THAT THE EXECUTIVE OFFICER BE AUTHORIZED TO EXECUTE A BOUNDARY AGREEMENT WITH COAST CAPITAL, INC., THE CITY OF NEWPORT BEACH, AND THE STATE OF CALIFORNIA, A COPY OF WHICH IS ATTACHED AS EXHIBIT "A" AND HEREBY MADE A PART HEREOF, FIXING THE BOUNDARY OF GRANTED STATE TIDE AND SUBMERGED LANDS ALONG THE SHORE OF NEWPORT BAY, AND AS SHOWN ON "MAP OF LANCASTER'S ADDITION TO NEWPORT BEACH" ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION.

Attachment
Exhibit "A"

EXHIBIT "A"

BOUNDARY AGREEMENT

THIS BOUNDARY AGREEMENT, made and entered into by and between THE CITY OF NEWPORT BEACH (as Party of the First Part hereinafter referred to as "City") and COAST CAPITAL, INC., a California corporation, (as Party of the Second Part hereinafter referred to as "Capital") and STATE OF CALIFORNIA, acting by and through the STATE LANDS COMMISSION (as Party of the Third Part hereinafter referred to as "the State").

W I T N E S S E T H

WHEREAS, the State acting through the State Lands Commission is authorized by Section 6357 of the Public Resources Code to establish by agreement the ordinary high water mark or the ordinary low water mark of the swamp, overflowed, marsh, tide or submerged lands of this State, whenever it is deemed expedient or necessary; and

WHEREAS, the City of Newport Beach, per Chapter 494, Statutes of 1919, and Chapter 70, Statutes of 1927 holds all right, title and interest in and to the tidelands and submerged lands in Newport Bay; and

WHEREAS, Capital appears of record as owner of certain uplands bordering on a waterway known as "The Rhine" in Newport Bay, Orange County, California; and

WHEREAS, the State Lands Commission, pursuant to Section 6301 of the Public Resources Code, is vested with all jurisdiction and authority remaining in the State as to tidelands and submerged lands to which

EXHIBIT "A" (CONTD.)

grants have been made or may be made; and

WHEREAS, the ordinary high water mark or the ordinary low water mark as each may have existed in its last natural state has been affected by artificial and natural processes or a combination of both; and

WHEREAS, the State, the City and Capital consider it expedient and necessary and in the best interests of all concerned to describe and fix permanently the boundary between private uplands and granted tidelands and submerged lands and forever set at rest any and all questions relating to the location of said boundary line;

NOW, THEREFORE, in order to locate, describe and permanently establish the true and correct boundary line between the uplands owned by Capital and the tidelands and submerged lands in Newport Bay, it is agreed between the State, the City and Capital that said boundary line shall be as follows:

The southeasterly line of Block 30^{1/2}, of Lancaster's Addition to Newport Beach, California, as per map recorded in Book 5, Page 14 of Miscellaneous Maps, Records of Orange County, California, said line also being the northwesterly line of "The Rhine", a waterway 60 feet in width shown on said map.

This agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates hereafter written:

CITY OF NEWPORT BEACH

Date of Signature

By _____
Mayor

Date of Signature

By _____
City Clerk

EXHIBIT "A" (CONTD.)

STATE OF CALIFORNIA)
COUNTY OF _____) ss

On this _____ day of _____ in the year _____,
before me, _____, a
Notary Public in and for said County and State, personally appeared
_____ and _____
known to me to be the _____ and _____
of the city that executed the within instrument and acknowledged to me
that such city executed the same.

Name (Typed or Printed)
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

COAST CAPITAL, INC.

Date of Signature By _____
President

Date of Signature By _____
Secretary

STATE OF CALIFORNIA)
COUNTY OF _____) ss

On this _____ day of _____ in the year _____,
before me, _____, a
Notary Public in and for said County and State, personally appeared
_____ and _____
known to me to be the _____ and _____
of the corporation that executed the within instrument and acknowledged to
me that such corporation executed the same.

Name (Typed or Printed)
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

EXHIBIT "A" (CONTD.)

STATE OF CALIFORNIA
Acting by and through
STATE LANDS COMMISSION

By _____
F. J. HORTIG
Executive Officer

Date of Signature

STATE OF CALIFORNIA)
COUNTY OF _____) ss

On this _____ day of _____ in the year _____,
before me, _____, a
Notary Public in and for said County and State, personally appeared
F.J. HORTIG, known to me to be the Executive Officer of the State Lands
Commission, and known to me to be the person who executed the within Instru-
ment on behalf of said agency, and acknowledged to me that such agency
executed the same.

Name (Typed or Printed)
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE