

MINUTE ITEM

17. APPROVAL OF BOUNDARY AGREEMENT, ORANGE COUNTY, BETWEEN CITY OF NEWPORT BEACH, MIRIAM BLAICH, AND STATE OF CALIFORNIA - W.O. 5307, B.L.A. 58.

After consideration of Calendar Item 1 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO EXECUTE A BOUNDARY AGREEMENT BETWEEN MIRIAM BLAICH, 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, AS SHOWN ON "MAP OF EASTSIDE ADDITION TO BALBOA TRACT" ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION.

Attachment

Calendar Item 1 (5 pages)

CALENDAR ITEM

1.

APPROVAL OF BOUNDARY AGREEMENT, ORANGE COUNTY, BETWEEN CITY OF NEWPORT BEACH, MIRIAM BLAICH, AND STATE OF CALIFORNIA - W.O. 5307.

At the request of Miriam Blaich, the City of Newport Beach asked the State Lands Division to enter into an agreement fixing the boundary line along a portion of the shore of the Pacific Ocean. Inasmuch as Chapter 813, Statutes of 1929, granted these tide and submerged lands to the City of Newport Beach, the City and Miriam Blaich will be the principal parties concerned, with the State entering into the agreement as an interested third party.

Because of construction of jetties at the entrance to Newport Bay, the beach now extends approximately 1,000 feet waterward of the last natural Mean High Tide Line. The position of the proposed boundary agrees with a U. S. Corps of Engineers map, dated 1912, based on a survey prior to construction of the jetties. This segment is a continuation of a boundary line that was established by Orange County Superior Court Case No. 46423. From a review of these data and the records of the Division, there does not appear to be any reason to object to the proposed line as the fixed boundary, and both the City of Newport Beach and Miriam Blaich are agreeable to the location of the described boundary line as described in Exhibit "A" attached.

The Office of the Attorney General has previously approved boundary agreements in this form, and Staff Counsel has determined that the proposed agreement is legally sufficient.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE A BOUNDARY AGREEMENT BETWEEN MIRIAM BLAICH, 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, AS SHOWN ON "MAP OF EASTSIDE ADDITION TO BALBOA TRACT" 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
MIRIAM BLAICH (as Party of the Second Part hereinafter referred
to as "Second Party") 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 813, Statutes of
1929, holds all right, title and interest in and to all of the tidelands,
submerged lands and filled lands lying within the corporate limits of the
City of Newport Beach and bordering upon, in and under the Pacific Ocean,
situated below the line of Mean High Tide of the Pacific Ocean; and

WHEREAS, Second Party appears of record as owner of certain
uplands bordering on the Pacific Ocean in the City of Newport Beach, 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

EXHIBIT "A" (CONTD.)

remaining in the State as to tidelands and submerged lands to which 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 Second Party 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 Second Party and the tidelands of the Pacific Ocean, it is agreed between the State, the City and Second Party that said boundary line should be as follows:

A line parallel with and distant 202.42 feet southwesterly from the northeasterly line of Lots 8 and 9 in Block 22, as shown on a map of Eastside Addition to Balboa Tract, recorded in Miscellaneous Maps Book 4, page 20, records of Orange County, California, and between the southwesterly prolongation of a line parallel with and ten (10) feet northwesterly of the southeasterly line of said Lot 8 and the southwesterly prolongation of a line parallel with and thirty-five (35) feet southeasterly of the southeasterly line of said Lot 8.

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

EXHIBIT "A" (CONTD.)

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

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

Date of Signature

Miriam Blaich

STATE OF _____)
COUNTY OF _____) ss

On this _____ day of _____ in the year _____,
before me, _____, a
Notary Public in and for said County and State, personally appeared
_____,
known to me to be the person whose name is subscribed to the within
Instrument, and acknowledged to me that she 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
Instrument 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