

MINUTE ITEM

This Calendar Item No. 59
was approved as Minute Item
No. 59 by the State Lands
Commission by a vote of 3
to 0 at its 6/11/90
meeting.

CALENDAR ITEM

59

A 44

S 18

06/11/90
PRC 2589
AD 125
Grimmett
Pelkofer

ACCEPT THE MALIBU PIER; AUTHORIZE A
GENERAL LEASE - PUBLIC AGENCY USE; APPROVAL OF
SUBLESSEE; AUTHORIZE A COMPROMISE BOUNDARY LINE
AGREEMENT WITH THE DEPARTMENT OF PARKS AND RECREATION

I. MALIBU PIER STRUCTURE:

A ten-year lease to the Department of General Services, subsequently transferred to the Department of Parks and Recreation for the land and a use area occupied by the Malibu pier structure, was approved by the Commission on June 26, 1980. This lease had several special provisions, including the following clause:

"Restoration of Lease Premises.

Upon expiration or sooner termination of this lease, Lessor shall accept the Lease Premises, as then improved with structures, buildings, pipelines, machinery, facilities, and fills in place, provided however that Lessor may require Lessee to make such repairs as are then necessary to place said improvements into a condition of good order and safe condition or remove said improvements at Lessee's option and expense."

Since the State's purchase of this pier, much repair work has been done to protect the public safety. Any currently needed repairs, as well as future repair work, is provided for in a proposed concession contract referenced in Item 3 below.

(ADDED 06/08/90)

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II. APPLICANT INFORMATION:

APPLICANT: Department of Parks and Recreation
1416 - 9th Street
Sacramento, California 95814

AREA, TYPE LAND AND LOCATION:

A 1.18-acre parcel of tide and submerged land
in Santa Monica Bay at Malibu, Los Angeles
County.

LAND USE: Operation and maintenance of a recreation pier,
sports fishing, and tour boat service,
restaurants, shops complex, and public restroom
facilities.

TERMS OF ORIGINAL LEASE:

Initial period: Ten (10) years beginning
July 1, 1980.

Consideration: Public use and benefit.

Special: Clause that Lessor shall
accept the lease premises as
then improved with structures.

TERMS OF PROPOSED LEASE:

Initial period: Twenty (20) years beginning
July 1, 1990.

Surety bond: \$250,000.

Public liability insurance: Combined single
limit coverage of \$1,000,000.

CONSIDERATION: Public use and benefit with a provision
that 50 percent of any surplus revenues
accruing to the Department, after deduction
of reasonable maintenance and operation
expenses incurred for operation of the
Malibu Pier and the adjacent park
facilities, will be paid to the State Lands
Commission. In addition, the State Lands
Commission reserves the right to fix a
different rental on each fifth anniversary
of the lease.

BASIS FOR CONSIDERATION:

Pursuant to 2 Cal. Code Regs. 2003.

(ADDED 06/08/90)

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APPLICANT STATUS:

Applicant is owner of upland.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing fee has been received.

STATUTORY AND OTHER REFERENCES:

A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.

B. Cal. Code Regs.: Title 2, Div. 3;
Title 14, Div. 6.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

1. A proposed lease has been sent to the Department of Parks and Recreation for their review and approval.

The lease has several provisions for reports on pier repair and maintenance and its costs; that adequate books and records be kept and be available for inspection; for the on-going physical repairs to the pier and the costs to be a deduction against rent; that the repair work will meet building code standards and be inspected periodically by an engineer, and that an oil spill plan be implemented for the diesel fuel for the fishing boat. Further provisions pertain to refuse containers; plastic food containers, parking, pier uses, use outside the prescribed area, and a modification of the insurance and bond paragraphs of the General Provisions.

2. The annual rental value of the site is estimated to be \$564,000.
3. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. but will not affect those significant lands.

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4. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities, 2 Cal. Code Regs 2905(a)(2).

Authority: P.R.C. 21084, 14 Cal. Code Regs. 15300, and 2 Cal. Code Regs. 2905.

- EXHIBITS: A. Land Description.
B. Location Map.

III. SUB-LEASE

In conjunction with the above lease, the Department of Parks and Recreation requests the approval of a Sub-lessee, The Malibu Historical Pier Project, Ltd., with whom the Department is entering into a 20-year concession contract to be the Master Concessionaire responsible for operating and performing all maintenance work on the Malibu Pier structure. A copy of this concession contract is in the Commission's file for this lease and is hereby incorporated by reference for further information.

IV. BOUNDARY AGREEMENT:

Pursuant to Section 6357 of the P.R.C., Staff requests authority to enter into a Compromise Boundary Line Agreement with the Department of Parks and Recreation along an agreed ordinary high water mark. This line, the seaward demarcation of the Department's upland parcels, would be located using data developed for Las Tunas Beach, down coast of this site, and from the area known as Access Way 4, upcoast of the pier. The data would then be applied to the more landward mean highwater surveys traversing this area which will place the boundary line generally along the toe of the rock rip rap protecting the parking lot located on the upland.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES, 2 CAL. CODE REGS. 2905(a)(2).

(ADDED 06/08/90)

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2. ACCEPT THE MALIBU PIER STRUCTURE PURSUANT TO TERMS IN THE LEASE APPROVED JUNE 26, 1980.
3. AUTHORIZE ISSUANCE TO DEPARTMENT OF PARKS AND RECREATION OF A 20-YEAR GENERAL LEASE - PUBLIC AGENCY USE, BEGINNING JULY 1, 1990; IN CONSIDERATION OF THE PUBLIC USE AND BENEFIT, WITH A PROVISION THAT 50 PERCENT OF ANY SURPLUS REVENUES ACCRUING TO THE DEPARTMENT, AFTER DEDUCTION OF REASONABLE MAINTENANCE AND OPERATION EXPENSES INCURRED FOR OPERATION OF THE MALIBU PIER AND THE ADJACENT PARK FACILITIES, WILL BE PAID TO THE STATE LANDS COMMISSION. IN ADDITION, THE STATE LANDS COMMISSION RESERVES THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; FOR THE OPERATION AND MAINTENANCE OF A RECREATION PIER, SPORTS FISHING AND TOUR BOAT SERVICE, RESTAURANTS, SHOPS COMPLEX, AND PUBLIC RESTROOM FACILITIES ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.
4. FIND THAT THE PROPOSED BOUNDARY AGREEMENT IS IN THE BEST INTEREST OF THE STATE; AUTHORIZE THE EXECUTION AND RECORDATION OF SAID AGREEMENT AND CONVEYANCES PURSUANT THERETO, AND ACCEPT THE CONVEYANCES TO THE STATE AS PROVIDED THEREIN.
5. AUTHORIZE STAFF OF THE STATE LANDS COMMISSION AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY IN ORDER TO IMPLEMENT AND GIVE EFFECT TO THIS AGREEMENT.

(ADDED 06/08/90)

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EXHIBIT "A"

PRC 2589

LAND DESCRIPTION

A parcel of tide and submerged land lying in the Pacific Ocean, City of Malibu, Los Angeles County, California, said parcel being immediately beneath an existing pier, **TOGETHER WITH** a necessary use area extending no more than 15 feet from the extremities of said pier, said pier being adjacent to and southerly of that certain parcel of land described in Grant Deed filed August 15, 1944, in Book 21117, page 357, Los Angeles County Records.

EXCEPTING therefrom any portion lying landward of the ordinary high water mark of the Pacific Ocean.

END OF DESCRIPTION

REVIEWED MAY 22, 1990 BY SAS.

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EXHIBIT "B"

PRC 2569



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