MINUTE ITEM

8/31/72
RHM

15. FINDINGS OF STATUTORY COMPLIANCE WITH SUBSTANTIAL IMPROVEMENT CLAUSE, GRANTED LANDS, ALAMEDA COUNTY; CITY OF BERKELEY - Grant 1-jd.

After consideration of Calendar Item 13 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. FINDS THAT THE CITY OF BERKELEY HAS SUBSTANTIALLY IMPROVED THE LANDS GRANTED TO IT AS REQUIRED BY SECTION 1(j), CHAPTER 55, STATUTES OF 1962.

2. AUTHORIZES THE EXECUTIVE OFFICER TO NOTIFY THE CITY OF BERKELEY, THE SECRETARY OF THE SENATE, AND THE CHIEF CLERK OF THE ASSEMBLY THAT THE COMMISSION HAS MADE AN INVESTIGATION OF SUBSTANTIAL IMPROVEMENT, AS REQUIRED BY THE GRANT STATUTE, AND FINDS THAT THE CITY OF BERKELEY HAS SUBSTANTIALLY IMPROVED THE LAND WITHIN THE TERMS OF SECTION 1(j), CHAPTER 55, STATUTES OF 1962.

Attachment:
Calendar Item 13 (3 pages)

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CALENDAR ITEM

8/72
RHM
Grant 1-3d

13.

FINDINGS OF STATUTORY COMPLIANCE WITH SUBSTANTIAL IMPROVEMENT CLAUSE --GRANTED LANDS

GRANTEE: City of Berkeley.

LOCATION: Lands granted by Chapter 347, Statutes of 1913, as amended by Chapter 55, Statutes of 1962, as said lands are shown on a "Map of the Grant to the City of Berkeley" prepared and approved by the State Lands Commission and recorded in the office of the Recorder of Alameda County on July 24, 1963, as Serial No. AU 122380 in Map Book 43, page 13A.

PURPOSE: Determine whether the lands granted to the City of Berkeley by Chapter 347, Statutes of 1913, as amended by Chapter 55, Statutes of 1962, have been substantially improved within the terms and meaning of the statute. Section 1(j) states:

> "If the lands, or any part thereof, granted to the city by this act are not used for the additional purposes authorized by the amendments of this section made at the 1961 Regular Session and 1962 First Extraordinary Session of the Legislature within 10 years from the effective date of the respective amendments, or if such use is discontinued thereafter, the authorization to use said lands for such additional purposes shall automatically terminate and lapse."

REPORT OF INVESTIGATION:

On January 18, 1972, the Executive Officer authorized a study to determine if the above-mentioned granted lands have been substantially improved, as required by the grant statute. On March 3, 1972, the State Lands Division requested from the City such items as photographs, maps, and other graphic materials showing the extent of any improvements made within the ten-year period; a comprehensive detailed statement listing all expenditures and revenues for each of the ten years of the substantial improvement period; a general description of the City's method of accounting for trust funds and disbursements; a list of capital projects showing costs, dates, etc.; a narrative statement outlining any specific problems encountered in the development of the grant and reasons why the City feels the statute has been complied with; and any other pertinent or helpful material. On May 16, 1972, the City submitted a report generally supplying the requested information.

On June 23, 1972, staff conducted an on-site investigation accompanied by City Director of Parks and Recreation and the Berkeley Marina Supervisor.

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During the week of July 10, a staff auditor reviewed the City accounts to ascertain if the financial data submitted by the City was accurately reported.

All material gathered or submitted regarding this investigation is filed with the State Lands Division.

FACTS SUPPORTING DETERMINATION:

Section 1(a) of the subject grant statute requires that said lands shall be used for purposes of general statewide interest. This rules out, by implication, any uses which are merely of local interest or advantage. Further, the section provides in part that:

> ". . . said lands shall be used by said city and its successors . . . for the establishment, improvement and conduct of a harbor, . . . for the construction, reconstruction, repair, maintenance and operation of wharves, docks, piers, slips, quays and all other works, buildings, facilities, utilities, structures, and appliances necessary . . . for the promotion and accommodation of commerce and navigation . . . for all commercial and industrial uses . . . as may be specified by the City Council . . . for the establishment, improvement, and conduct of an airport and heliport . . . and all other works . . . necessary or convenient for the promotion and accommodation of air commerce . . . for the construction, reconstruction, repair, maintenance and operation of public buildings, . . . parks, playgrounds . . . bathing facilities . . . for the establishment, improvement, and conduct of small boat harbors, marinas, aquatic playgrounds and similar recreational facilities . . ."

At the time of this investigation the physical changes on the granted tidelands, over the ten-year period, were ascertained to be as follows:

1. Increase, throug[illegible] ge-fill operations, the harbor berthing capaci[illegible] small boats from 241 to 604 berths.

2. Development of a marine park and small boat basin with sheltered sailing basin.

3. Construction of a shoreline beach park with landscaping, sandy beaches, and picnic areas.

4. Consummation of marina lease concessions for a motel-boatel, two restaurants, a fuel dock, a marine office building, and a bait tackle and food service facility.

5. Construction of a breakwater, and construction and development of jetties at the harbor mouth.

6. Construction of public launching facilities, both ramp and hoist types.

7. Extension and betterment of fishing pier.

Some of the specific development features particularly enhanced the use of, and access to, the granted lands. For example, extensive walkways lead to all parts of the marina; skillful use of landscaping results in small "pocket" parks protected from the bay breeze, and in nearly hidden-free parking; there is ample bench seating and frequent city buses which increase access to the very young and to senior citizens; artificial tidepools have been built and an adjacent "pocket" park developed into a natural coastland environment where birds, wildflowers and woodchucks may be observed; among the social amenities are food facilities ranging from snack to gourmet offerings, and numerous clean restrooms. The City, while improving the lands, has taken pains to shield existing dump operations from view by planting succulents and trees in an artificial mound along the north road.

All of these improvements were carried out in accordance with an overall and continuing water-oriented development plan including both granted and ungranted lands. All of the improvements on the granted lands were consistent with the terms of the grant, and definitely enhanced the lands for the use of all the citizens in the State.

EXHIBITS: A. Site Map. B. Map of Granted Area.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE CITY OF BERKELEY HAS SUBSTANTIALLY IMPROVED THE LANDS GRANTED TO IT AS REQUIRED BY SECTION 1(j), CHAPTER 55, STATUTES OF 1962.

2. AUTHORIZE THE EXECUTIVE OFFICER TO NOTIFY THE CITY OF BERKELEY, THE SECRETARY OF THE SENATE, AND THE CHIEF CLERK OF THE ASSEMBLY THAT THE COMMISSION HAS MADE AN INVESTIGATION OF SUBSTANTIAL IMPROVEMENT, AS REQUIRED BY THE GRANT STATUTE, AND FINDS THAT THE CITY OF BERKELEY HAS SUBSTANTIALLY IMPROVED THE LAND WITHIN THE TERMS OF SECTION 1(j), CHAPTER 55, STATUTES OF 1962.