

21. APPLICATION FROM THE CITY OF EUREKA FOR TERMINATION OF EASEMENT FOR COMMERCE, NAVIGATION AND FISHERY, AND APPROVAL OF EXCHANGE OF LANDS WITHIN THE HUMBOLDT BAY AREA; HUMBOLDT COUNTY - W 20698.1.

After consideration of Calendar Item 22 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION, IN ACCORDANCE WITH CHAPTER 1085, STATUTES OF 1970:

1. DETERMINES AND DECLARES, PURSUANT TO AND IN ACCORDANCE WITH SECTION 2(b) OF CHAPTER 1085, STATUTES OF 1970, THAT THOSE PORTIONS OF PARCELS 3, 4, 5, 6, AND 7 AS DESCRIBED IN EXHIBIT B TO EXHIBIT I OF CITY'S AGREEMENT AS WERE BELOW THE LINE OF MEAN HIGH TIDE IN THEIR LAST NATURAL CONDITION, ARE LANDS WITHIN THE HUMBOLDT BAY AREA WHICH HAVE HERETOFORE BEEN IMPROVED IN CONNECTION WITH THE DEVELOPMENT OF THE HUMBOLDT BAY AREA, AND IN THE PROCESS OF SUCH DEVELOPMENT HAVE BEEN FILLED AND RECLAIMED, ARE NO LONGER SUBMERGED OR BELOW THE LINE OF MEAN HIGH TIDE, AND SUBSEQUENT TO THE PROPOSED EXCHANGE HEREIN, ARE NO LONGER NECESSARY OR USEFUL FOR COMMERCE, FISHERIES OR NAVIGATION, AND CONSEQUENTLY ARE FREED OF THE PUBLIC USE AND TRUST FOR COMMERCE, FISHERIES AND NAVIGATION AND FROM SUCH USES, TRUSTS, CONDITIONS AND RESTRICTIONS AS ARE OR HAVE BEEN IMPOSED BY CHAPTER 82, STATUTES OF 1857; CHAPTER 438, STATUTES OF 1915; CHAPTER 187, STATUTES OF 1927; CHAPTER 225, STATUTES OF 1945; AND CHAPTER 1085, STATUTES OF 1970; AS SUBSEQUENTLY AMENDED AND MODIFIED.
2. APPROVES AND AUTHORIZES THE SETTLEMENT, CONVEYANCES AND AGREEMENTS BY THE CITY PROVIDED FOR IN THE CITY'S AGREEMENT, PURSUANT TO AND IN ACCORDANCE WITH SECTIONS 3(a) AND 6 OF CHAPTER 1085, STATUTES OF 1970.
3. APPROVES THE CONSIDERATION TO BE PAID THE CITY BY THE RECORD OWNERS IN EXCHANGE FOR THE SETTLEMENT, CONVEYANCES AND AGREEMENTS BY THE CITY PROVIDED FOR IN THE CITY'S AGREEMENT, PURSUANT TO AND IN ACCORDANCE WITH SECTION 4 OF CHAPTER 1085, STATUTES OF 1970.
4. AUTHORIZES THE EXECUTIVE OFFICER TO EXECUTE AND DELIVER TO THE CITY FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF HUMBOLDT, PURSUANT TO AND IN ACCORDANCE WITH SECTION 2(b) OF CHAPTER 1085, STATUTES OF 1970, A CERTIFICATE THAT PARCELS 3, 4, 5, 6, AND 7 AS DESCRIBED IN EXHIBIT B OF CITY'S AGREEMENT ARE LANDS ABOVE THE PRESENT LINE OF MEAN HIGH TIDE AND HAVE BEEN FOUND TO BE NO LONGER NECESSARY OR USEFUL FOR COMMERCE, FISHERIES OR NAVIGATION.
5. AUTHORIZES THE ATTORNEY GENERAL TO FILE, IN ANY ACTION TO QUIET TITLE BROUGHT BY THE RECORD OWNERS PURSUANT TO SECTION 4.5 OF THE SETTLEMENT AGREEMENT, A DISCLAIMER BY THE STATE OF CALIFORNIA OF ANY RIGHT, TITLE OR INTEREST IN OR TO THOSE CERTAIN LANDS DESCRIBED AS PARCELS 3, 4, 5, 6, AND 7 IN EXHIBIT B OF CITY'S AGREEMENT.

MINUTE ITEM 21. (CONTD)

6. AUTHORIZES THE STATE LANDS DIVISION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL NECESSARY STEPS WHICH THEY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THE SETTLEMENT AGREEMENT.

Attachment:

Calendar Item 22 (3 pages)

APPLICATION FROM THE CITY OF EUREKA FOR TERMINATION OF
EASEMENT FOR COMMERCE, NAVIGATION AND FISHERY, AND
APPROVAL OF EXCHANGE OF LANDS WITHIN THE HUMBOLDT BAY AREA

Pursuant to Chapter 1085, Statutes of 1970, the City of Eureka is required to submit an application to the State Lands Commission for approval of any settlements of interest in granted tide and submerged lands located within the City of Eureka. This application is the first of what is expected to be a series of applications submitted by the City of Eureka for settlement of waterfront title and boundary matters. In this application, the Commission is requested to approve an exchange between the City of Eureka and George J. Rynecki, Stella S. Rynecki, and G. & R. Metals Eureka, Inc. (hereinafter referred to as the Record Owners). Record Owners claim title to the settlement parcels as successors in interest to various deeds executed by the City pursuant to Chapter 82, Statutes of 1857. The 1857 grant provides in part that:

"The Board of Trustees of said town, are hereby authorized and required to lay off said water front, in lots of such size, and in such manner as will accommodate and subserve the interest of the present 'millowners,' and other occupants, and shall proceed to sell such lots as are now in the bona fide possession of such 'millowners' and other occupants, to said occupants at a price not to exceed one dollar per front foot, and extending from high water mark to a point in the bay, where the water shall not be over six feet deep, at low tide."

The instruments by which Record Owners claim title do not purport to grant or reserve to the State or City any right, title or interest in or to the settlement parcels, and the Record Owners contend that the conveyances by the City were valid and conveyed into private ownership all the right, title and interest of the City and State in and to the settlement parcels, free of the public trust for commerce, navigation and fishery. The City, however, has asserted an interest in portions of the settlement parcels by virtue of its right and interest in and with respect to tide and submerged lands in the Humboldt Bay area. Because of these two inconsistent claims, a dispute exists between the City and the Record Owners as to the extent of public and private ownership in the tide and submerged lands conveyed to the City by the State and the boundaries of the lands described in the deeds from the City to the purported predecessors in interest of the Record Owners.

This dispute has arisen because the natural topography of Humboldt Bay subsequent to 1857 has been substantially affected by artificial influences such as dredging, filling and bulkheading. In order to settle this dispute without costly and time-consuming litigation, the City and the Record Owners have agreed upon a compromise and settlement of these title and boundary

CALENDAR ITEM NO. 22. (CONTD)

disputes whereby the City is to convey to the Record Owners all of its right, title and interest in those certain lands described as: Parcels 3, 4, 5, 6, and 7 in Exhibit B to the City's "Agreement and Escrow Instructions for the Settlement of a Dispute Relating to Lands Within the Humboldt Bay Area" (hereinafter referred to as City's Agreement), which agreement is on file with the State Lands Division and by reference made a part hereof. (The subject parcels are depicted on Exhibit B attached to this Calendar Item.)

In consideration, the Record Owners are to convey to the City all of their right, title and interest in those certain lands described as Parcels 1 and 2 in the City Agreement; and to make the payments provided for therein. This settlement is made with reference to the following facts developed by the City.

1. The settlement is in accordance with the Eureka Core Area Development Plan, which plan provides in part for the development of the waterfront of the City.
2. The settlement parcel is landward of the waters of Humboldt Bay and at no point is closer than 120 feet from the present line of mean high tide.
3. The City has found that the value of the City's interest which will be conveyed to Record Owners is less than the value which Record Owners will convey to the City.
4. The settlement parcels are located entirely landward of the 6-foot contour line referred to in the 1857 Statute.

The law firm of Nossaman, Waters, Scott, Krueger & Riordan has been retained by the City in resolving its waterfront problems. It is concluded that it is in the best interest of the City and State and in accordance with the provisions of Chapter 1085, Statutes of 1970, to resolve the public's claim in the Record Owner's property upon the terms and conditions and for the considerations set forth in the City's Agreement. The Division has independently reviewed the proposed settlement and concurs with this recommendation.

This proposed agreement has been reviewed and approved by the Office of the Attorney General.

EXHIBITS:

A. Site Map.

B. Parcel Map.

IT IS RECOMMENDED THAT THE COMMISSIONER, IN ACCORDANCE WITH CHAPTER 1085, STATUTES OF 1970:

1. DETERMINE AND DECLARE, PURSUANT TO AND IN ACCORDANCE WITH SECTION 2(b) OF CHAPTER 1085, STATUTES OF 1970, THAT THOSE PORTIONS OF PARCELS 3, 4, 5, 6, AND 7 AS DESCRIBED IN EXHIBIT B TO EXHIBIT I OF CITY'S AGREEMENT AS WERE BELOW THE LINE OF MEAN HIGH TIDE IN THEIR LAST NATURAL CONDITION,

CALENDAR ITEM NO. 22. (CONTD)

ARE LANDS WITHIN THE HUMBOLDT BAY AREA WHICH HAVE HERETOFORE BEEN IMPROVED IN CONNECTION WITH THE DEVELOPMENT OF THE HUMBOLDT BAY AREA, AND IN THE PROCESS OF SUCH DEVELOPMENT HAVE BEEN FILLED AND RECLAIMED, ARE NO LONGER SUBMERGED OR BELOW THE LINE OF MEAN HIGH TIDE, AND SUBSEQUENT TO THE PROPOSED EXCHANGE HEREIN, ARE NO LONGER NECESSARY OR USEFUL FOR COMMERCE, FISHERIES OR NAVIGATION, AND CONSEQUENTLY ARE FREED OF THE PUBLIC USE AND TRUST FOR COMMERCE, FISHERIES AND NAVIGATION AND FROM SUCH USES, TRUSTS, CONDITIONS AND RESTRICTIONS AS ARE OR HAVE BEEN IMPOSED BY CHAPTER 82, STATUTES OF 1857; CHAPTER 438, STATUTES OF 1915; CHAPTER 187, STATUTES OF 1927; CHAPTER 225, STATUTES OF 1945; AND CHAPTER 1085, STATUTES OF 1970; AS SUBSEQUENTLY AMENDED AND MODIFIED.

2. APPROVE AND AUTHORIZE THE SETTLEMENT, CONVEYANCES AND AGREEMENTS BY THE CITY PROVIDED FOR IN THE CITY'S AGREEMENT, PURSUANT TO AND IN ACCORDANCE WITH SECTIONS 3(a) AND 6 OF CHAPTER 1085, STATUTES OF 1970.
3. APPROVE THE CONSIDERATION TO BE PAID THE CITY BY THE RECORD OWNERS IN EXCHANGE FOR THE SETTLEMENT, CONVEYANCES AND AGREEMENTS BY THE CITY PROVIDED FOR IN THE CITY'S AGREEMENT, PURSUANT TO AND IN ACCORDANCE WITH SECTION 4 OF CHAPTER 1085, STATUTES OF 1970.
4. AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE AND DELIVER TO THE CITY FOR RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF HUMBOLDT, PURSUANT TO AND IN ACCORDANCE WITH SECTION 2(b) OF CHAPTER 1085, STATUTES OF 1970, A CERTIFICATE THAT PARCELS 3, 4, 5, 6, AND 7 AS DESCRIBED IN EXHIBIT B OF CITY'S AGREEMENT ARE LANDS ABOVE THE PRESENT LINE OF MEAN HIGH TIDE AND HAVE BEEN FOUND TO BE NO LONGER NECESSARY OR USEFUL FOR COMMERCE, FISHERIES OR NAVIGATION.
5. AUTHORIZE THE ATTORNEY GENERAL TO FILE, IN ANY ACTION TO QUIET TITLE BROUGHT BY THE RECORD OWNERS PURSUANT TO SECTION 4.5 OF THE SETTLEMENT AGREEMENT, A DISCLAIMER BY THE STATE OF CALIFORNIA OF ANY RIGHT, TITLE OR INTEREST IN OR TO THOSE CERTAIN LANDS DESCRIBED AS PARCELS 3, 4, 5, 6, AND 7 IN EXHIBIT B OF CITY'S AGREEMENT.
6. AUTHORIZE THE STATE LANDS DIVISION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL NECESSARY STEPS WHICH THEY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THE SETTLEMENT AGREEMENT.