MINUTE ITEM 8/21/75
RSH

25. FINDING OF NONCOMPLIANCE WITH STATUTORY SUBSTANTIAL IMPROVEMENT CLAUSE AND 49-YEAR PUBLIC AGENCY PERMIT, TIDE AND SUBMERGED LAND BAYWARD OF THE CITY OF SAN LEANDRO, ALAMEDA COUNTY; CITY OF SAN LEANDRO - G01-06, PRC 5048.

After consideration of Calendar Item 25 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. FINDS THAT THE CITY OF SAN LEANDRO HAS FAILED TO IMPROVE THE LAND GRANTED TO IT BY CHAPTER 685, STATUTES OF 1959, AS REQUIRED BY SECTION 1 OF THAT ACT, AND ALL JURISDICTION FORMERLY VESTED IN THE CITY BY VIRTUE OF SAID ACT REVERTED TO THE STATE.

2. AUTHORIZES THE EXECUTIVE OFFICER, TO NOTIFY THE CHIEF CLERK OF THE ASSEMBLY, THE SECRETARY OF THE SENATE, AND THE CITY OF SAN LEANDRO, THAT THE COMMISSION HAS FOUND THAT THE CITY OF SAN LEANDRO, HAS NOT IMPROVED THE GRANTED LAND WITHIN THE TERMS OF SECTION 1 OF CHAPTER 685, STATUTES OF 1959, AND BY OPERATION OF SAID STATUTE SAID LAND HAS REVERTED TO THE STATE.

3. DETERMINES THAT AN ENVIRONMENTAL IMPACT REPORT HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF PRC SECTION 21085, 14 CAL. ADM. CODE SECTION 15100 AND 2 CAL. ADM. CODE SECTION 2907.

4. AUTHORIZES THE ISSUANCE TO THE CITY OF SAN LEANDRO OF A 49-YEAR PUBLIC AGENCY PERMIT FROM AUGUST 21, 1975, IN CONSIDERATION OF THE PUBLIC USE AND BENEFIT, WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENTAL IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST; FOR OPEN SPACE AND PARK PURPOSES; ON LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment:
Calendar Item 25 (5 pages)

A 14
S 18

CALENDAR ITEM

8/75
RSH
G01-06

25.

FINDING OF NONCOMPLIANCE WITH
STATUTORY SUBSTANTIAL IMPROVEMENT CLAUSE
AND
PUBLIC AGENCY PERMIT

TRUSTEE: City of San Leandro
835 East 14th Street
San Leandro, California 94577

LOCATION: Submerged State lands granted by Chapter 685, Statutes of 1959, as said lands are shown on the "Map of the Grant to City of San Leandro" prepared and approved by the Executive Officer of the State Lands Commission on March 1, 1960 and recorded March 16, 1960, in Map Book 40 at Page 87A by Chief Deputy Recorder of Alameda County.

PURPOSE: To make a finding that the City of San Leandro has not "substantially improved" the lands granted and therefore has not met the condition set by Section 1(g) of the statute.

Section 1 (g) states as follows:

...within 10 years from the effective date of this act said lands shall be substantially improved by said city without expense to the State, and if the State Lands Commission determines that the city has failed to improve said lands as herein required, all right, title, and interest of said city in and to all lands granted by this act shall cease and said lands shall revert and rest in the State.

IMPROVEMENT DEFINED:
Under Section 1 of the Statute also states the trust uses, purposes and conditions:

(a) That said lands shall be used by said city and its successors for purposes in which there is a general statewide interest, as follows:
(1) For the establishment, improvement and conduct of a harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays, and other utilities, facilities, buildings, works, structures and appliances necessary or convenient for the promotion and accommodation of commerce and navigation.

A 14
S 18

(2) For the establishment, improvement and conduct of an airport or aviation facilities, including but not limited to approach, takeoff and clear zones in connection with airport runways, and for the construction, maintenance, and operation thereon of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and other utilities, facilities, buildings, structures, works and appliances necessary or convenient for the promotion and accommodation of air commerce and air navigation.
(3) For public recreation purposes, and for the establishment, improvement and conduct of utilities, facilities, structures, buildings, works and appliances necessary or convenient for the promotion and accommodation of public recreation.

IMPROVEMENT ACCOMPLISHED:
None of the above improvements, called for under the statute, were accomplished on the granted lands.

REPORT OF INVESTIGATION:
In response to a request from State Lands Division, the City of San Leandro submitted a letter April 20, 1972, declaring that no development had been undertaken on the grant itself. Consisting of two strips of totally submerged water, they formed a part of the Shoreline Recreation Area, an area of approximately two and one-half square miles, all of which had been acquired by the City subsequent to the State grant. At no point did the granted strips connect with unsubmerged lands. The non-granted lands had been developed for a harbor and marina, small boat lagoon, and golf course. As described in a report on file, State Lands Division staff studied whether the development on the upland could be considered in conjunction with the granted lands as satisfying the requirements of the statute for development. Their conclusion, in March, 1974, indicated such development could be considered.

Division staff and City officials discussed the matter amicably for a period of several months. City officials pointed out that to report on the shoreline development would be a lengthy process, involving many hours of staff time. According to Division legal staff, the City also had the alternative of applying for a public agency permit for park purposes where the land would remain open space in support of recreational activities. Rather

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than submitting reports on the uplands construction and continuing to be subject to tidelands trust accounting for an area that was not even contiguous with the grant, officials decided that the City would not object to a finding that conditions of the 1959 grant were not met. Instead the City would apply for a public agency permit for Open Space and Park Purposes in the area relinquished. Accordingly, the Division recommends the following agreement:

PUBLIC AGENCY PERMIT

APPLICANT: City of San Leandro
835 East 14th Street
San Leandro, California 94577

AREA, TYPE LAND AND LOCATION:
A 93.66 acre parcel of tide and submerged land bayward of the City of San Leandro, Alameda County.

LAND USE: Open space and park purposes.

TERMS OF PROPOSED PERMIT:
Initial period: 49 years, commencing with the date of reversion of the granted lands to the State, August 21, 1975.

CONSIDERATION: The public use and benefit, with the State reserving the right at any time to set a monetary rental if the Commission finds such action to be in the State's best interest.

STATUTORY AND OTHER REFERENCES:
a. Public Resources Code: Div. 6, Parts 1 & 2.
b. Administrative Code: Title 2, Div. 3, Arts. 1, 2, & 10; Title 14, Section 15000, et seq.
c. Chapter 685, Statutes of 1959.

OTHER PERTINENT INFORMATION:
An Environmental Impact Report is not required. This transaction is within the purview of 2 Cal. Adm. Code 2907 (categorical exemption - Class B).

EXHIBITS:
A. Land Description.
B. Location Map.
C. Grant Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE CITY OF SAN LEANDRO HAS FAILED TO IMPROVE THE LAND GRANTED TO IT BY CHAPTER 685, STATUTES OF 1959, AS REQUIRED BY SECTION 1 OF THAT ACT, AND ALL JURISDICTION FORMERLY VESTED IN THE CITY BY VIRTUE OF SAID ACT REVERTED TO THE STATE.

2. AUTHORIZE THE EXECUTIVE OFFICER, TO NOTIFY THE CHIEF CLERK OF THE ASSEMBLY, THE SECRETARY OF THE SENATE, AND THE CITY OF SAN LEANDRO, THAT THE COMMISSION HAS FOUND THAT THE CITY OF SAN LEANDRO, HAS NOT IMPROVED THE GRANTED LAND WITHIN THE TERMS OF SECTION 1 OF CHAPTER 685, STATUTES OF 1959, AND BY OPERATION OF SAID STATUTE SAID LAND HAS REVERTED TO THE STATE.

3. DETERMINE THAT AN ENVIRONMENTAL IMPACT REPORT HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF PRC SECTION 21085, 14 CAL. ADM. CODE SECTION 15100 AND 2 CAL. ADM. CODE SECTION 2907.

4. AUTHORIZE THE ISSUANCE TO THE CITY OF SAN LEANDRO OF A 49-YEAR PUBLIC AGENCY PERMIT FROM AUGUST 21, 1975 IN CONSIDERATION OF THE PUBLIC USE AND BENEFIT, WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENTAL IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST; FOR OPEN SPACE AND PARK PURPOSES; ON LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment: Exhibit "A"

EXHIBIT "A"

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Those parcels of tide and submerged land in the bed of San Francisco Bay, State of California, granted from the State of California to the City of San Leandro pursuant to Chapter 685, California Statutes of 1959, being more particularly described as follows:

PARCEL 1:

A strip of land, 300 feet in width, and 11,500 feet, more or less, in length, lying in San Francisco Bay, parallel to and immediately adjacent and baywardly of the most westerly subdivision boundary line, across Sections 32 and 33, T 2 S, R 3 W, MDM, and Sections 4 and 9, T 3 S, R 3 W, MDM, as shown on Maps Nos. 1 and 2 of "Salt Marsh and Tide Lands Situate in the County of Alameda", prepared by order of the Board of Tide Land Commissioners, dated 1871, filed in the office of the State Lands Commission in Sacramento and having the following metes and bounds description:

> BEGINNING at the southwest corner of Lot 24 in Section 33, T 2 S, R 3 W, MDM, as said lot is shown on "Sale Map No. 10 of Salt Marsh and Tidelands, situate in the County of Alameda, State of California", filed June 9, 1888, in the Office of the County Recorder of Alameda County in Map Book 17, page 30; thence along the westerly boundary line of Tide Lots as they are designated on said map, S 21° 48' E, 7108.20 feet; thence S 33° 41' E, 4085.51 feet; thence S 44° W, 307.08 feet; thence N 33° 41' W, 4182.23 feet; thence N 21° 48' W, 7368.17 feet; thence N 73° 30' 40" E, 52.27 feet; thence S 69° 43' E, 334.09 feet to the point of beginning.

PARCEL 2:

All that portion of Mulford Canal lying [illegible]erly from the northerly extension of the easterly lin[illegible] [illegible] Lot 30 of Section 4, T 3 S, R 3 W, MDM, as shown upon "Map No. 1 of Salt Marsh and Tide Lands, Situate in the County of Alameda", prepared by order of the Board of Tide Land Commissioners, dated 1871.

END OF DESCRIPTION