

MINUTE ITEM

This Calendar Item No. 35
was approved as Minute Item
No. 35 by the State Lands
Commission by a vote of 2
0 at its 8-26-80
meeting.

CALENDAR ITEM

35.

8/80
W 20698.3
Grimes
Rusconi

APPROVAL OF SETTLEMENT OF
TITLE DISPUTE IN THE CITY OF EUREKA

In June of 1973, an agreement was entered into between the City of Eureka ("City") and the Northwestern Pacific Railroad Company ("Railroad") in resolution of title problems in the City of Eureka. The parcels in question are included within the perimeter descriptions of Tideland Survey's 1 and 8, are subject to the common law public trust for commerce navigation and fisheries, and all interest of the State of California was granted to the City of Eureka pursuant to Chapter 82 of the Statutes of 1857, Chapter 438 of the Statutes of 1915, Chapter 187 of the Statutes of 1927, Chapter 225 of the Statutes of 1943, and Chapter 1086 of the Statutes of 1970, as amended.

Following the acceptance by the city of a United States Economic Development Administration loan for a fish processing plant, the City undertook negotiations with the Railroad regarding acquisition of a suitable parcel. The resulting agreement contemplated the exchange of parcels and the lifting of the common law public trust from one of the parcels.

Pursuant to Chapter 1085 of 1970, the State Lands Commission is required to approve the settlement of any dispute or to the right, title, or interest in or to tide and submerged lands located within the City.

The essential elements of this settlement are:

1. The Railroad agreed to quitclaim to the City all of its right, title, and interest in and to that certain parcel of real property called "Parcel 2", described in Exhibit "B" to the Agreement, and located at Commercial and Second Streets.

A 2

S 2

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2. The Railroad agreed to quitclaim to the City all rights reserved to the Railroad in a deed recorded October 19, 1945, to 11.583 acres of land called "Parcel 3", described in Exhibit "B" to the Agreement, and located on Humboldt Bay near Commercial Street.
3. The City transferred and conveyed to the Railroad the fee title subject to the common law public trust for commerce, navigation and fisheries to that parcel of real property called "Parcel 1", described in Exhibit "A" to the Agreement, and located at Wabash and Railroad Avenue.
4. The City has paid to the Railroad the sum of \$67,218 and has done certain foundation work on Parcel 1.
5. The City agreed to endeavor to cause to be released within 10 years, the common law public trust for commerce, navigation and fisheries on Parcel 1. It is for this release that the City now needs Commission approval.

The Office of the Attorney General and the Commission's staff recommend approval of this settlement. The settlement agreement is on file with the Office of the State Lands Commission.

EXHIBITS: A. Location Map. B. Parcel Map.

IT IS THEREFORE RECOMMENDED THAT THE COMMISSION, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 1085, STATUTES OF 1970:

1. APPROVE THE CONVEYANCES AND AGREEMENTS BY THE CITY PROVIDED FOR IN THE AGREEMENT PURSUANT TO AND IN ACCORDANCE WITH SECTIONS 3(b) AND 6 OF CHAPTER 1085 OF THE STATUTES OF 1970 AND ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION.
2. APPROVE THE ADEQUACY OF THE CONSIDERATION GIVEN TO THE CITY BY THE RAILROAD IN EXCHANGE FOR THE CONVEYANCES AND AGREEMENTS BY THE CITY PROVIDED FOR IN THE AGREEMENT, PURSUANT TO AND IN ACCORDANCE WITH SECTION 4 OF CHAPTER 1085 OF THE STATUTES OF 1970.

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3. DETERMINE AND DECLARE, PURSUANT TO AND IN ACCORDANCE WITH SECTION 2(b) OF CHAPTER 1085 OF THE STATUTES OF 1970 THAT PARCEL 1 AS DESCRIBED IN EXHIBIT "A" TO THE AGREEMENT HERETO CONSISTS OF LAND WITHIN THE HUMBOLDT BAY AREA WHICH HAS HERETOFORE BEEN IMPROVED IN CONNECTION WITH THE DEVELOPMENT OF THE HUMBOLDT BAY AREA, AND IN THE PROCESS OF SUCH DEVELOPMENT HAS BEEN FILLED AND RECLAIMED, IS NO LONGER SUBMERGED OR BELOW THE LINE OF MEAN HIGH TIDE, AND IS NO LONGER NECESSARY OR USEFUL FOR COMMERCE, FISHERIES OR NAVIGATION, AND CONSEQUENTLY IS FREED OF THE PUBLIC EASEMENT AND TRUST FOR COMMERCE, FISHERIES AND NAVIGATION AND FROM SUCH OTHER USES, TRUSTS, CONDITIONS AND RESTRICTIONS AS ARE OR HAVE BEEN IMPOSED BY CHAPTER 225 OF THE STATUTES OF 1945 OR CHAPTER 1086 OF THE STATUTES OF 1970, AS SUBSEQUENTLY AMENDED AND MODIFIED.
4. AUTHORIZE THE EXECUTION AND RECORDATION IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF HUMBOLDT, PURSUANT TO AND IN ACCORDANCE WITH SECTIONS 2(b) AND 5 OF CHAPTER 1085, STATUTES OF 1970, A CERTIFICATE THAT THE LANDS WITHIN PARCEL 1 DESCRIBED IN EXHIBIT "A" TO THE AGREEMENT ARE LANDS ABOVE THE PRESENT LINE OF MEAN HIGH TIDE AND HAVE BEEN FOUND TO BE NO LONGER NECESSARY OR UDEFUL FOR COMMERCE, FISHERIES OR NAVIGATION, UPON THE RECORDATION OF WHICH CERTIFICATE AND OTHER INSTRUMENTS PROVIDED FOR IN THE SETTLEMENT, THE LANDS WITHIN SAID PARCEL 1 SHALL BE FREED OF THE PUBLIC USE AND TRUST FOR COMMERCE, FISHERY, AND NAVIGATION, AND FROM SUCH USES, TRUSTS, CONDITIONS AND RESTRICTIONS AS ARE OR HAVE BEEN IMPOSED BY CHAPTER 187, STATUTES OF 1927; CHAPTER 225, STATUTES OF 1945; AND CHAPTER 1986, STATUTES OF 1970; AS SUBSEQUENTLY AMENDED AND MODIFIED.
5. AUTHORIZE THE ATTORNEY GENERAL TO FILE, IN ANY ACTION TO QUIET TITLE TO PARCEL 1 AS DESCRIBED IN EXHIBIT "A" TO THE AGREEMENT WHICH MAY BE BROUGHT BY THE RAILROAD OR THE CITY, A DISCLAIMER BY THE STATE OF CALIFORNIA OF ANY RIGHT, TITLE OR INTEREST IN OR TO PARCEL 1 AS DESCRIBED IN EXHIBIT "A" TO THE AGREEMENT.
6. AUTHORIZE THE STAFF OF THE COMMISSION AND OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS WHICH THEY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THE SETTLEMENT AGREEMENT.
7. FIND THAT THE PROPOSAL AGREEMENT IS IN SETTLEMENT OF A TITLE AND BOUNDARY DISPUTE AND THE PROVISION OF CEQA ARE INAPPLICABLE.

TO BE ACQUIRED BY
CITY OF EUREKA

HUMBOLDT BAY

PARCEL 3

PARCEL 2

EXCHANGE PARCEL TO BE
ACQUIRED BY NWP RAILROAD

PARCEL 1

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