

MINUTE ITEM

8/31/72
RHM(JAK)

22. RECONSIDERATION OF DECISION OF MAY 24, 1972, CONCERNING SUBSTANTIAL IMPROVEMENT OF TIDELANDS GRANT TO CITY OF ALBANY, PURSUANT TO CHAPTER 1763, STATUTES OF 1961 - Grant 1-2.

During consideration of Calendar Item 21 attached, Lawrence Saler, City Attorney for the City of Albany, presented his reasons for requesting reconsideration of the Commission's action of May 24, 1972, basing his contentions on the fact that the Lands Division's staff report eliminated or discounted several important factors. However, it was pointed out by the Commission that its decision had not been based solely on the staff report, but also on the two-hour public hearing that had been held on the matter, at which time all interested parties present were heard and all arguments presented were considered.

UPON MOTION DULY MADE AND CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED:

THE COMMISSION:

1. AUTHORIZES THE EXECUTIVE OFFICER TO NOTIFY THE CITY OF ALBANY THAT THE COMMISSION AT ITS MEETING OF MAY 24, 1972:
 - A. CONSIDERED THE IMPROVEMENTS TO MEAN IMPROVEMENTS TO THE CONDITIONS OF THE TIDELANDS AS THEY EXISTED IN 1961;
 - B. CONSIDERED ALL CIRCUMSTANCES DURING THE TEN-YEAR PERIOD PRIOR TO ITS DECISION;
 - C. CONSIDERED THE FACTORS MENTIONED IN PARAGRAPH 3 OF THE CITY'S LETTER; AND
 - D. CONSIDERED THE EXTENSION OF BUCHANAN STREET TO THE TIDELAND AREA.
2. AUTHORIZES THE EXECUTIVE OFFICER TO NOTIFY THE CITY OF ALBANY THAT THE COMMISSION'S ACTION OF MAY 24, 1972, CONSTITUTES ITS FINDING PURSUANT TO CHAPTER 1763, STATUTES OF 1961.

Attachment:

Calendar Item 21 (2 pages)

SUPPLEMENTAL CALENDAR ITEM

8/72
RHM(JAK)
Grant 1-2

21.

REQUEST FOR RECONSIDERATION OF DECISION OF MAY 24, 1972,
CONCERNING SUBSTANTIAL IMPROVEMENT OF TIDELANDS GRANT
TO CITY OF ALBANY, PURSUANT TO CHAPTER 1763, STATUTES OF 1961

By letter to the State Lands Commission dated June 7, 1972, the City of Albany requested the Commission to reconsider its decision of May 24, 1972, finding that the City had not substantially improved the lands granted to it pursuant to Chapter 1763, Statutes of 1961. The requests for reconsideration were based on, but not limited to, the following:

"1. Two members of the Commission were in error when they interpreted the language of Chapter 1763 in finding that the 'lands' had not been substantially improved. The members of the Commission failed to consider the improvement from the condition existing in 1961, which was unfilled tidelands, but rather interpreted the language of the last paragraph of Chapter 1763 as requiring that the 'lands', meaning the ground itself, shall be substantially improved.

"2. The Commission failed to consider the circumstances during the ten-year period, and failed to apply the legal definition of substantially to the matter before it, which definition is as follows:

'Substantially is a relative term, its measure to be gauged by all the circumstances surrounding the matter in reference to which the expression has been used.'

"3. The State Lands Commission failed to take into consideration the planning process and the adoption of the General and Specific Plan for the tidelands, and the moneys expended for planning and engineering, all of which is an important factor in an improvement."

A review of the oral testimony before the Commission, the hearing in Albany on March 23, 1972, the Commission's files (Grant 1-2) including all staff reports and the report submitted by the City of Albany, show that the questions raised by the City in its letters of June 7, 1972, and August 29, 1972, had been thoroughly considered by the Commission.

IT IS RECOMMENDED THAT THE COMMISSION:

1. AUTHORIZE THE EXECUTIVE OFFICER TO NOTIFY THE CITY OF ALBANY THAT THE COMMISSION AT ITS MEETING OF MAY 24, 1972:
 - A. CONSIDERED THE IMPROVEMENTS TO MEAN IMPROVEMENTS TO THE CONDITIONS OF THE TIDELANDS AS THEY EXISTED IN 1961;

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SUPPLEMENTAL CALENDAR ITEM NO. 21. (CONTD)

- B. CONSIDERED ALL CIRCUMSTANCES DURING THE TEN-YEAR PERIOD PRIOR TO ITS DECISION;
 - C. CONSIDERED THE FACTORS MENTIONED IN PARAGRAPH 3 OF THE CITY'S LETTER; AND
 - D. CONSIDERED THE EXTENSION OF BUCHANAN STREET TO THE TIDE-LAND AREA.
2. AUTHORIZE THE EXECUTIVE OFFICER TO NOTIFY THE CITY OF ALBANY THAT THE COMMISSION'S ACTION OF MAY 24, 1972, CONSTITUTES ITS FINDING PURSUANT TO CHAPTER 1763, STATUTES OF 1961.