

MINUTE ITEM

This Calendar Item No. 22
was approved as Minute Item
No. 22 by the State Lands
Commission by a vote of 3
to 0 at its 12/19/77
meeting.

MINUTE ITEM

12/19/77
Rump

22. LAND EXCHANGE; W 503,872; RBA 167.

During consideration of Calendar Item 22 attached, Chairman Kenneth Cory disclosed for the record that, even though Mr. Ben Swig, a landowner in this transaction, has never--to Mr. Cory's knowledge--contributed to his campaign, Mr. Swig is an active member of his party. He also disclosed that no one had ever talked to him about this matter.

Chairman Cory asked Jan Stevens, Assistant Attorney General, if his office had been involved in the subject settlement. Mr. Stevens advised that they had played an active role in the negotiations of this agreement and that they recommended their approval.

Mr. James F. Trout, Manager, Land Operations, at this time explained that since the printing of this calendar, the City of Redwood City found it necessary to acquire a slightly larger piece of property. Due to the engineering changes that are required to meet Federal flood control standards, the city has requested an additional 2,000 feet on the site be transferred by the private party to the city and State. He explained that it reduces the consideration the private party must pay the State from \$29,000 to \$25,200. He also stated that staff has reviewed the request, feels the change is required for the purposes of public safety, and has amended the agreement to include the change.

During the discussion of the item, Mr. Cory expressed concern over the fact that since the district doesn't own the entire area of Browns Island (See Minute Item 21, page), would the State have trouble, using the land bank concept, acquiring the remainder of the island. However, staff assured the Commission that it is their belief this would not create a problem.

At the conclusion of the discussion, Mr. Cory suggested that the staff begin discussions with East Bay Regional Park District concerning acquiring the remaining piece of property on Brown's Island before another party acquires it first. Mr. Northrop assured the Commission that staff would proceed immediately.

Upon motion duly made and carried, the Commission adopted the resolutions as presented by a vote of 3-0.

Attachment: Calendar Item 22 (3 pages)

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CALENDAR ITEM

22.

LAND EXCHANGE

11/77
W 503.872
Rump
BLA 167

A quiet title action has been pending before the San Mateo Superior Court, Benjamin Swig v. City of Redwood City, No. 207,304, concerning title to lands which border upon Redwood Creek within the City of Redwood City, San Mateo County.

The upland is claimed by the private party as a successor in interest to a swamp and overflowed land patent which meanders the Creek. In addition, the party asserts a color of ownership by virtue of a private deed calling to the center of the Creek.

The State has granted to the City, by virtue of Chapter 34 of Statutes of 1954 (1st E.S.), all sovereign tide and submerged lands within Redwood Creek subject to the terms and conditions of said grant. The State Lands Commission must review and approve or deny any boundary and exchange agreement affecting said lands.

The City and the State assert fee title ownership to the Creek as it originally existed subject to the public trust.

The Creek has changed its location by reason of fill and leveeing over the years. As a result, lands behind a bulkhead are filled and are no longer subject to tidal action. The State and City assert that the natural position of the Creek was landward of the bulkhead. The Grant map to the City also places the line landward.

Negotiations have been conducted among the representatives of the City, the State, and the private party. These negotiations have resulted in a proposed agreement for the settlement of the title dispute by a land exchange. The major points of this proposed agreement are as follows:

1. The private party will quitclaim any right, title, or interest waterward of the bulkhead or existing channel areas to the City and State.
2. The City and the State will relinquish and terminate any title interest landward.
3. The State is to receive title to an undivided proportionate interest in

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the amount of \$29,000 in Brown's Island Land Bank Properties, Contra Costa County, in settlement of sovereign lands landward of the existing Creek Channel. Redwood City has expressed strong concerns that the acquisition of an exchange parcel within the City would reduce its tax base and, therefore, has agreed that the State alone may acquire lands elsewhere as is required by Public Resources Code Section 6307.

An evaluation has been made by the Division which shows that the State will receive land and interests in land equal or greater in value than those lands and interests in lands claimed by the State and City and to be surrendered by this agreement.

The agreement has been reviewed and approved by the office of the Attorney General.

The proposed exchange is for the purpose of settling a title dispute and the private party remains subject to all lawful requirements of public agencies for permits, mitigation, use, or otherwise, independent of this agreement.

EXHIBITS: A. Transaction Plat. B. Exchange Parcel.

IT IS RECOMMENDED THAT THE COMMISSION:

1. APPROVE THE EXCHANGE AS PROPOSED BY THE CITY AND AUTHORIZE THE EXECUTION OF THE EXCHANGE AGREEMENT BETWEEN THE COMMISSION, THE CITY OF REDWOOD CITY, AND THE PRIVATE PARTY. A COPY OF SAID AGREEMENT IS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE THERETO IS MADE A PART HEREOF.
2. FIND THAT THE EXCHANGE OF LANDS, INTERESTS IN LANDS, AND RIGHTS SET FORTH IN THE AGREEMENT REFERRED TO IN PARAGRAPH 1 ABOVE, ARE IN THE BEST INTERESTS OF THE STATE FOR AID IN RECLAMATION; THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING IN THE WATERS INVOLVED, AND THAT THE STATE WILL RECEIVE LANDS AND INTERESTS IN LANDS EQUAL TO OR GREATER IN VALUE THAN ANY LANDS OR INTERESTS IN LANDS RELINQUISHED BY THE STATE PURSUANT TO SAID AGREEMENT.
3. AUTHORIZE THE EXECUTION OF A STATE PATENT TO THE PRIVATE PARTY OF THE REAL PROPERTY DESCRIBED IN THE AGREEMENT.

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4. ACCEPT AND AUTHORIZE THE RECORDATION OF CONVEYANCES TO THE STATE AND CITY AS PROVIDED IN THE AGREEMENT.
5. FIND AND DECLARE THAT UPON THE DELIVERY OF THE PATENT, AND THE RECORDATION THEREOF IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY, THE REAL PROPERTY DESCRIBED IN SAID PATENT:
 - a. HAS BEEN CUT OFF FROM NAVIGABLE WATERS, IMPROVED, FILLED, AND RECLAIMED BY THE PRIVATE PARTY OR PREDECESSORS IN INTEREST;
 - b. HAS THEREBY BEEN SEVERED FROM THE PUBLIC CHANNELS AND WATERWAYS AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR COMMERCE, NAVIGATION, AND FISHING, AND IS NO LONGER IN FACT TIDELANDS OR SUBMERGED LANDS AND THEREFORE SHALL BE FREED FROM SUCH PUBLIC TRUST.
6. AUTHORIZE THE CITY, THE STATE LANDS DIVISION, AND/OR THE OFFICE OF THE ATTORNEY GENERAL, TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE TRANSACTION DESCRIBED ABOVE, INCLUDING BUT NOT LIMITED TO, APPEARANCES IN ANY LEGAL PROCEEDINGS BROUGHT CONCERNING THE ABOVE TRANSACTION.
7. FIND THAT THE AGREEMENT IS IN SETTLEMENT OF TITLE AND BOUNDARY LITIGATION AND THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ARE INAPPLICABLE.