

MINUTE ITEM

41
11/21/85

CALENDAR ITEM

A 20

S 11

41

11/21/85

W 23605

AD 36

Cusack

APPROVAL OF A COMPROMISE TITLE SETTLEMENT AGREEMENT
UNDER KAPILOFF LAND BANK ACT, P.R.C. 8600 ET SEQ.

A title dispute exists between the State of California and the San Mateo City School District concerning possible sovereign ownership of approximately eight acres of land on Marina Lagoon in the City of San Mateo, San Mateo County. The school district has proposed to convey the land to a private party, which wishes to construct a high-density residential development. Staff of the State Lands Commission initially objected to the proposed development on the ground that it would occupy lands owned by the State by virtue of its sovereignty. This claim of ownership is based on the land's historical character as tide and submerged lands of the State. The school district is the successor-in-interest to swamp and overflow patents from the State, the legal effect of which was to reserve the public trust easement to the State while conveying the underlying fee.

The property, which is located northeast of the Bayshore Freeway and northwest of East Hillsdale Boulevard, has been filled and reclaimed and is currently dry land. The property has been included within reclamation districts, which are currently inoperative, and has been used for a school, now closed. Along the northeasterly border of the parcel, which fronts on Marina Lagoon, a 20-foot wide Public Trust Easement will be retained by the State.

Staff of the State Lands Commission has studied the evidence of title to the subject property and has concluded that the area was historically tide and submerged lands of the State subject to a public trust easement for commerce, navigation, fisheries, and associated wetlands uses. The school district does not necessarily concur in staff's analysis.

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It has been proposed that this dispute be resolved by entering into a compromise title settlement agreement. The staff of the Commission recommends approval of the compromise agreement now on file in the offices of the State Lands Commission.

The agreement contains the following principal provisions:

1. The State will convey, by patent, to the San Mateo City School District, all its right, title, and interest to the development parcel as described in Exhibit "A" and depicted in Exhibit "B", free of public trust ownership.
2. In exchange, the school district will deposit \$120,000 into the Kapiloff Land Bank Trust Fund created by P.R.C. 8610. This sum will be used to acquire lands useful for public trust purposes, the land to be received and held by the State as tide and submerged lands subject to the public trust.
3. Escrow costs and title insurance shall be provided without cost to the State. This agreement must be fully implemented on or before May 21, 1986.

Staff has appraised the real property and has evaluated the law and facts bearing on the title dispute and has concluded that the compromise title settlement agreement is in the best interest of the State and that the State will receive property or funds equal to or greater in value than the interests in lands relinquished pursuant to the compromise settlement agreement.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a statutory exempt project. The project is exempt because it involves settlements of title and boundary problems.

Authority: P.R.C. 21080.11.

2. In taking action on this staff recommendation the Commission is acting as the trustee of the Kapiloff Land Bank Fund created by P.R.C. 8610.

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

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 AS A STATUTORY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. APPROVE THE EXCHANGE AS PROPOSED AND AUTHORIZE IN SETTLEMENT OF THIS DISPUTE EXECUTION OF THE COMPROMISE SETTLEMENT AGREEMENT ON FILE IN THE OFFICE OF THE COMMISSION WHICH IS INCORPORATED HEREIN BY REFERENCE.
3. FIND THAT THE PROPOSED COMPROMISE SETTLEMENT AGREEMENT IS IN THE BEST INTERESTS OF THE STATE, FOR THE IMPROVEMENT OF NAVIGATION, FOR FLOOD CONTROL PROTECTION, AND TO ENHANCE THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND UPLAND; THAT IT WILL NOT SUBSTANTIALLY INTERFERE WITH THE RIGHTS OF NAVIGATION AND FISHING; AND THAT THE STATE WILL RECEIVE LANDS AND INTEREST IN LANDS OR FUNDS EQUAL TO OR GREATER IN VALUE THAN ANY LANDS OR INTERESTS IN LANDS RELINQUISHED BY THE STATE PURSUANT TO SAID COMPROMISE SETTLEMENT AGREEMENT.
4. FIND THAT THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE RESPECTING THE PRIVATE - STATE TITLES WITHIN THE SUBJECT PROPERTY; THAT THE PROPOSED COMPROMISE SETTLEMENT AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND FACT UPON WHICH THE DISPUTE IS BASED; THAT THE SETTLEMENT IS IN LIEU OF THE COSTS, DELAYS, AND UNCERTAINTIES OF TITLE LITIGATION; THAT SETTLEMENT IS CONSISTENT WITH AND IS AUTHORIZED BY THE REQUIREMENTS OF LAW, INCLUDING P.R.C. 6307 and 6312 AS WELL AS OTHER PROVISIONS OF DIV. 6 OF THE P.R.C. AND THE STATE'S POWER TO RESOLVE AND SETTLE CONTROVERSIES IN LIEU OF LITIGATION.
5. FIND AND DECLARE THAT UPON THE DELIVERY OF THE PATENT AND ITS RECORDATION IN SAN MATEO COUNTY, THE REAL PROPERTY, DESCRIPTION IN EXHIBIT "A" AND IN THE PATENT, HAS BEEN IMPROVED, FILLED AND RECLAIMED; HAS BEEN CUT OFF FROM THE PUBLIC CHANNELS AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING; IS NO LONGER IN FACT TIDE OR SUBMERGED LANDS; AND THEREFORE, SHALL BE FREED FROM THE PUBLIC TRUST FOR NAVIGATION AND FISHING.

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6. AUTHORIZE ISSUANCE OF A PATENT OF THE SUBJECT PROPERTY IN SAN MATEO COUNTY, DESCRIBED IN EXHIBIT "A", FREE OF THE PUBLIC TRUST.
7. AUTHORIZE THE STAFF OF THE STATE LANDS COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY OR APPROPRIATE TO IMPLEMENT THE ABOVE SETTLEMENT, INCLUDING, BUT NOT LIMITED TO, THE EXECUTION, ACKNOWLEDGEMENT AND RECORDATION OF ALL DOCUMENTS OF TITLE, CONVEYANCES, STIPULATIONS, ESCROW INSTRUCTIONS, AGREEMENTS, CERTIFICATES OF ACCEPTANCE, AND COURT DOCUMENTS; AND TO FILE ANY DOCUMENTS AND APPEAR IN ANY LEGAL PROCEEDINGS NECESSARY OR REQUIRED TO ACCOMPLISH THE TERMS AND PROVISIONS OF THE COMPROMISE SETTLEMENT AGREEMENT, PROVIDED THAT ALL STEPS NECESSARY TO IMPLEMENT THIS SETTLEMENT MUST TAKE PLACE ON OR BEFORE MAY 21, 1986.

EXHIBIT "A"

LAND DESCRIPTION

W 23605

A parcel of land in the City of San Mateo, County of San Mateo, State of California, more directly described as follows:

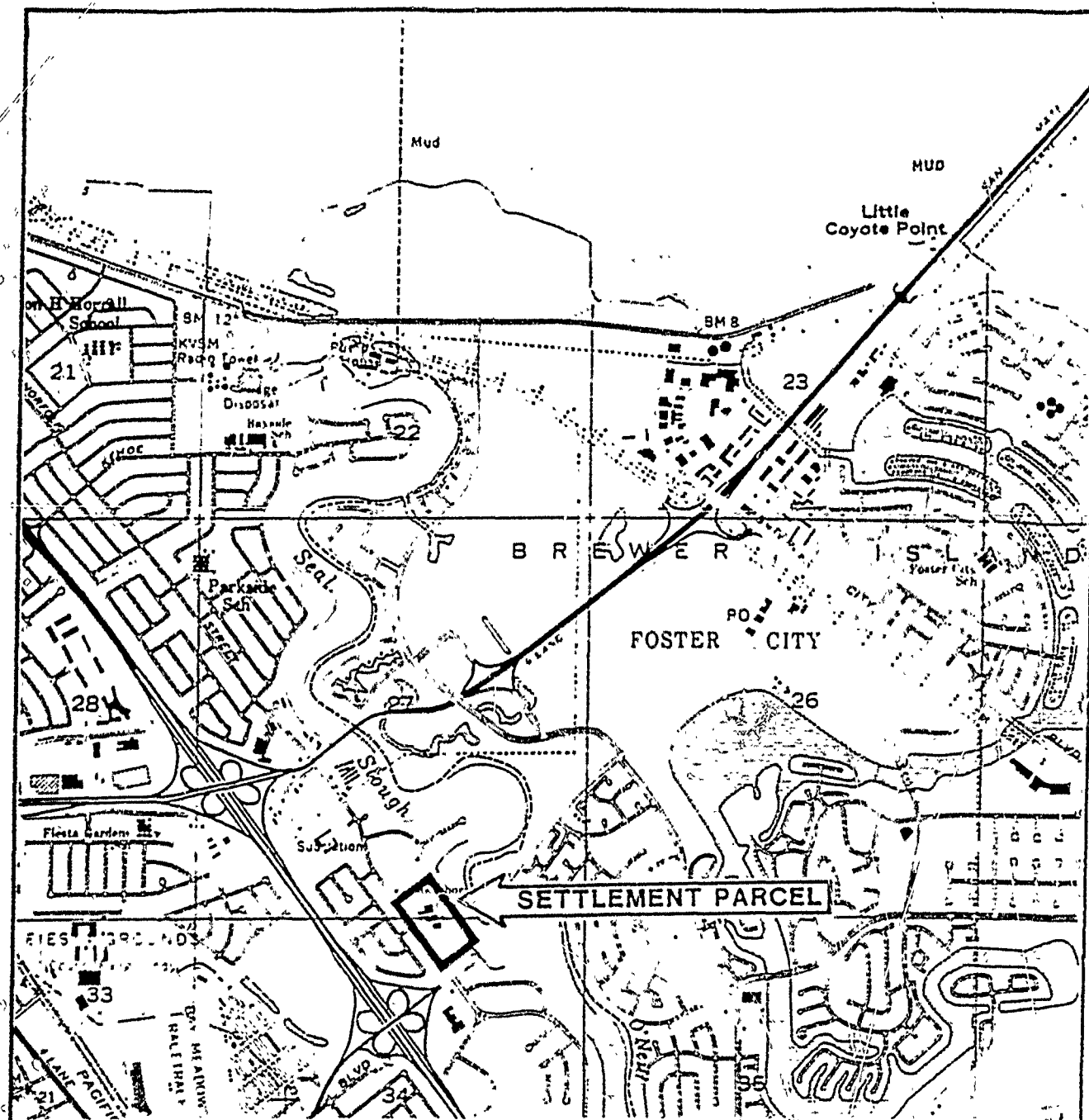
Parcel C, as shown on Parcel Map 260, filed May 2, 1984 in Volume 54 of Parcels Maps at page 52-53, in the Office of the Recorder of said County.

Reserving therefrom a 20.00 foot wide strip of land for Public Trust Easement purposes parallel and contiguous with the north-easterly line of said Parcel C.

END OF DESCRIPTION

PREPARED OCTOBER 3, 1985 BY BOUNDARY SERVICES UNIT, LOU SHAFER, SUPERVISOR.

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STATE LANDS COMMISSION
 PROPOSED SETTLEMENT PLAT
 A portion of USGS Quadrangle
 San Mateo 1956, pr 1980



Prepared by: JKHering Date: 9-18-85 A: 20 S: 11

EXHIBIT "B"

Title Study: Talden Investment Co. W 23605

23 -N38 -E148 (62)

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