

MINUTE ITEM

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of the minutes of the meeting held on 8/31/78

CALENDAR ITEM

27.

APPROVAL OF SETTLEMENT OF TITLE DISPUTE IN THE CITY OF EUREKA

8/78
W 21804
Mills

BLA 177

In March of 1978 the State Lands Commission's staff received an application submitted to the North Coast Regional Coastal Commission for a permit to place additional buildings on a completely filled and partially developed parcel of land in the City of Eureka. Review by the Commission's staff revealed there were serious title questions involved in this application because the parcel was, at least in part, traversed by Clark Slough and the bed of Clark Slough may have been submerged lands, the title to which was granted to the City of Eureka pursuant to Chapter 225 of the Statutes of 1945. In addition the balance of the parcel was included within the perimeter description of Tideland Survey Number 2 and would be subject to the public trust for commerce, navigation and fisheries.

In April the North Coast Regional Coastal Commission approved the permit contingent upon the applicant resolving the title problems with the City of Eureka and the State Lands Commission. Following negotiations between the applicant, Rainbow Mini Storage, the City of Eureka, the Office of the Attorney General and the State Lands Commission's staff a proposed settlement has been reached.

Pursuant to Chapter 1985, Statutes of 1970, the State Lands Commission is required to approve the settlement of any dispute as to rights, title, or interest in or to tide and submerged lands located within the City. This settlement represents the first of what is expected to be a series of applications for settlement of waterfront title matters in this area. In this application, the Commission is requested to approve a settlement between the City of Eureka, the State Lands Commission and Rainbow Mini Storage and other holders of record title to this parcel.

The essential elements of this settlement are:

1. The city, with the approval of the State Lands Commission will quitclaim all of its rights, title and interest in the parcel to the current holders of record title.
2. The current holders of record title will pay into escrow the sum of \$8,500.

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3. Any sums deposited into escrow will be held in trust and can only be used for the purchase of tide and submerged lands, or interests therein or lands interests in lands adjacent to such lands which are susceptible of use for public trust purposes.
4. Withdrawal of the funds will only be made when a suitable parcel is found and the Executive Officer of the State Lands Commission and the City of Eureka certify that the parcel meets the requirements specified above.
5. Any lands purchased with the funds will become part of the trust and will be subject to the provisions and limitations contained in the granting statutes.

Because the parcel is currently surrounded by streets on all 4 sides, is completely filled and practically developed and because the costs of litigation would probably exceed the value of the land, the Office of the Attorney General and the Commission's staff recommend approval of the settlement.

The Office of the Attorney General has orally advised the Commission's staff that such settlement is permissible under the limited circumstances outlined above and is consistent with the provisions of Chapter 1085 of the Statutes of 1970.

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

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

1. DETERMINE THAT PURSUANT TO SECTION 6371 OF THE PUBLIC RESOURCES CODE, SETTLEMENTS OF TITLE AND BOUNDARY ARE EXEMPT FROM THE ENVIRONMENTAL IMPACT REPORT REQUIREMENTS OF CEQA.
2. DETERMINE AND DECLARE, PURSUANT TO AND IN ACCORDANCE WITH SECTION 2(b) OF CHAPTER 1085, STATUTES OF 1970, THAT THOSE PORTIONS OF THE SETTLEMENT AS DESCRIBED IN EXHIBIT "A" THE PROPOSED SETTLEMENT AREA WHICH WERE BELOW THE LINE OF MEAN HIGH TIDE IN ITS LAST NATURAL POSITION, ARE LANDS WITHIN THE HUMBOLDT BAY AREA WHICH HAVE HERETOFORE BEEN IMPROVED IN CONNECTION WITH THE DEVELOPMENT OF THE HUMBOLDT BAY AREA, AND IN THE PROCESS OF SUCH DEVELOPMENT HAVE BEEN FILLED AND RECLAIMED; ARE NO LONGER SUBMERGED OR BELOW THE PRESENT LINE OF MEAN HIGH TIDE AND ARE NO LONGER NECESSARY OR USEFUL FOR COMMERCE, FISHERIES OR NAVIGATION.

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3. APPROVE THE SETTLEMENT, AS OUTLINED ABOVE, BETWEEN THE CITY OF EUREKA, THE STATE LANDS COMMISSION AND RAINBOW MINI STORAGE AND OTHER HOLDERS OF RECORD TITLE PURSUANT TO AND IN ACCORDANCE WITH SECTION 6 OF CHAPTER 1085, STATUTES OF 1970.
4. APPROVE OF THE ADEQUACY OF THE CONSIDERATION WITH RESPECT TO THE SETTLEMENT, PROVIDED FOR IN THE SETTLEMENT PURSUANT TO AND IN ACCORDANCE WITH SECTION 4 OF CHAPTER 1085, STATUTES OF 1970.
5. AUTHORIZE THE EXECUTIVE OFFICER TO NEGOTIATE, EXECUTE AND DELIVER INTO ESCROW FOR 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 SETTLEMENT AGREEMENT WHICH AGREEMENT WILL CERTIFY THE LANDS WITHIN THE SETTLEMENT AREA DESCRIBED IN EXHIBIT "A" ARE LANDS ABOVE THE PRESENT LINE OF MEAN HIGH TIDE AND HAVE BEEN FOUND TO BE NO LONGER NECESSARY OR USEFUL FOR COMMERCE, FISHERIES, OR NAVIGATION, UPON THE RECORDATION OF WHICH CERTIFICATE AND THE OTHER INSTRUMENTS PROVIDED FOR IN THE SETTLEMENT, THE LANDS WITHIN SAID SETTLEMENT AREA 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 1086, STATUTES OF 1970; AS SUBSEQUENTLY AMENDED AND MODIFIED.
6. AUTHORIZE THE OFFICE OF THE ATTORNEY GENERAL TO FILE IN ANY ACTION TO QUIET TITLE BROUGHT BY THE RECORD OWNERS PURSUANT TO AND CONSISTENT WITH THE SETTLEMENT AGREEMENT, A DISCLAIMER BY THE STATE OF CALIFORNIA ON BEHALF OF THE STATE LANDS COMMISSION OF ANY RIGHT, TITLE OR INTEREST IN OR TO THOSE CERTAIN LANDS DESCRIBED AS PARCELS 2, 3, 4 AND 5 IN EXHIBIT "A" OF THE PROPOSED SETTLEMENT AGREEMENT.
7. AUTHORIZE THE COMMISSION STAFF TO INVESTIGATE POSSIBLE PARCELS MEETING THE CRITERIA SPECIFIED ABOVE FOR PURCHASE BY THE CITY WITH FUNDS DEPOSITED INTO THE ESCROW AND WHEN SUCH PARCEL IS FOUND AUTHORIZE THE EXECUTIVE OFFICER TO CERTIFY TO THE ESCROW AGENT THAT A PARCEL MEETING SAID CRITERIA HAS BEEN FOUND AND THAT BY SUCH CERTIFICATION THE FUNDS MAY BE RELEASED FROM ESCROW FOR THE PURCHASE OF SUCH PROPERTY.
8. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS WHICH THEY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THE SETTLEMENT AGREEMENT.

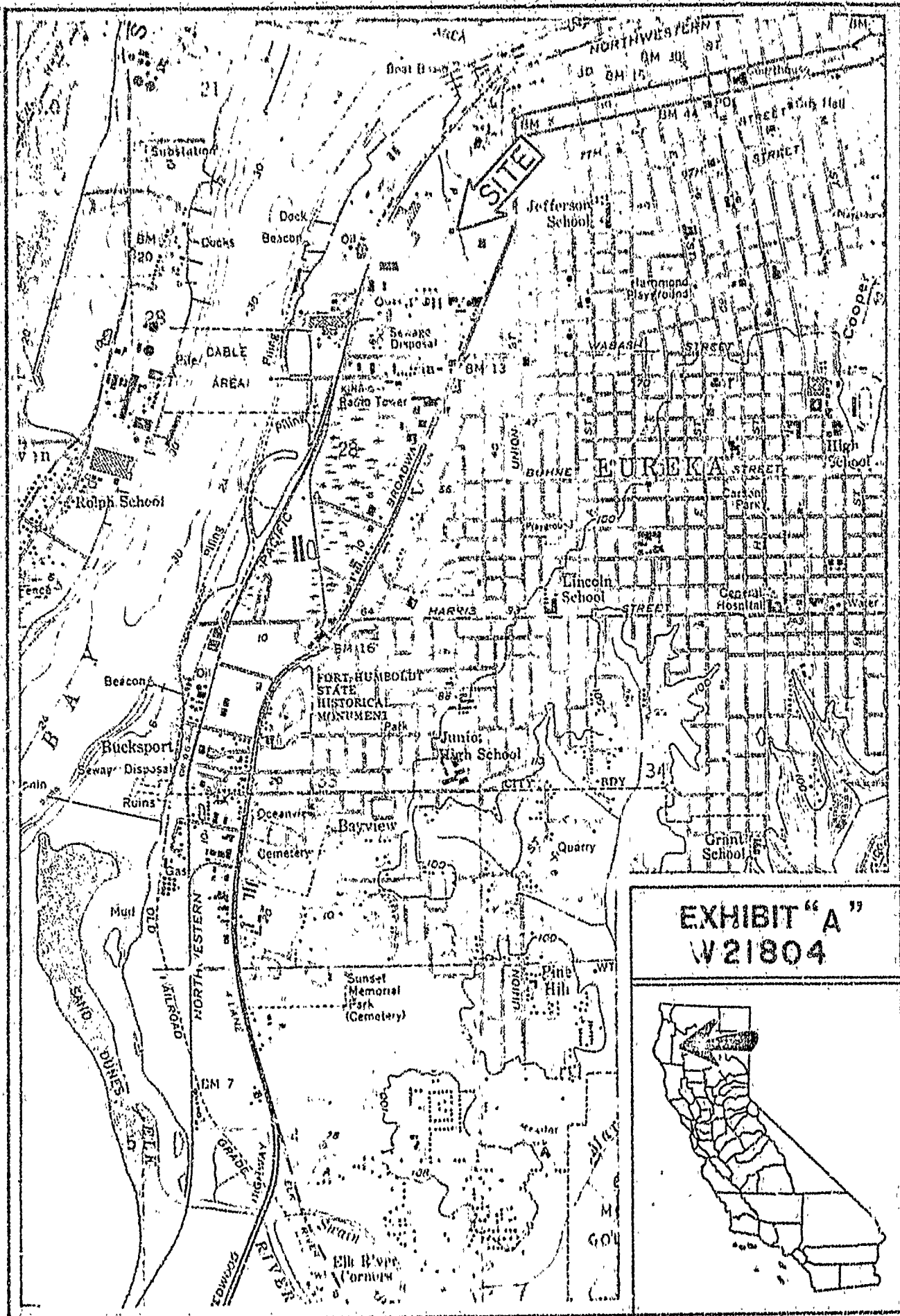


EXHIBIT "A"
W21804



KOSTER STREET

NORTH

269.96' NORTH

100.00'

109.98

PARCEL 4
12,500 SQ. FT.

NORTH
160.00'

PARCEL 5
12,000 SQ. FT.

NORTH
160.00'

PARCEL 2
8,000 SQ. FT.

NORTH
160.00'

PARCEL 1
103,729 SQ. FT.
2.35[±] ACRES

SOUTH 269.96'

SETTLEMENT AREA
EXHIBIT "D"

CLARK STREET

STREET

WEST

WEST 79.00'

WEST 201.62'

WEST LINE OF PARCEL
CONVERTED TO CAMPTON ELEC.
SUPPLY CO. PER 1930 OR 17

SEE NOTE 2

SEE NOTE 1

EAST 250.00'

66.40'

53.60'

75.90'

66.00'

75.00'

79.00'

30'

30'

30'

30'

DEED

DEED

SOUTH LINE OF PARCEL CONVEYED
TO THOMAS R. BURNS PER 145 OF DEEDS, 388
LINE THROUGH CENTER OF BLOCK 1

431.62' EAST