

MINUTE ITEM

This Calendar Item No. 19  
was approved as Minute Item  
19 by the State Lands  
Commission by a vote of 2  
to 0 at its 7-24-80  
meeting.

CALENDAR ITEM

19.

7/80  
G 16-03  
Horton

CONSIDERATION OF TRUST FUND ESTABLISHED FOR  
RECEIPT AND EXPENDITURE OF FUNDS DERIVED FROM  
GRANTED TIDELANDS UNDER THE CONTROL OF CITY OF CAPITOLA

TRUSTEE: City of Capitola  
420 Capitola Avenue  
Capitola, California 95010

LOCATION: Granted tide and submerged lands fronting  
the City of Capitola on Monterey Bay, Santa Cruz  
County.

BACKGROUND: Chapter 687, Statutes of 1935, as amended  
by Chapter 884, Statutes of 1974, permitted  
the County of Santa Cruz to convey to the  
City of Capitola the tide and submerged  
lands originally granted to the County  
provided certain procedures were followed  
and that the land remained subject to the  
public trust and other conditions. The  
County Board of Supervisors and the City  
Council passed the required resolutions;  
the State Lands Commission authorized filing  
a map, survey and description in July,  
1979; and the County conveyed its interest  
in a portion of the lands to the City by  
Quitclaim in December, 1979.

City officials reported the wharf at Capitola,  
which had been built in the 1850's to accommodate  
shipments of wheat, lumber and farm products  
from Soquel Valley to San Francisco and  
later served a thriving resort area, was  
in "deplorable" condition. Their immediate  
goal was to reconstruct the wharf and reopen  
it for fishing and related public use.  
Based on construction cost estimates and  
potential Federal and State grants or reimburse-  
ment for expenditures on the project, City  
officials anticipate the City share of  
costs will reach more than \$150,000. The  
Capitola Chamber of Commerce lists population  
of the City at 9300. City officials told  
staff of State Lands Commission they will

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seek reimbursement of their share of expenditures from future trust revenues. Legal review of similar situations indicated that to be entitled to reimbursement from tidelands revenues, a trustee must express intent to be repaid at the time or prior to the expenditure. If no such prior intent was expressed, this expenditure is deemed to have been a gift. Any repayment to a local general fund under such conditions, where there is no legal obligation to do so, constitutes an improper use of trust revenues. The City Council considered this principle in establishing the trust fund for the granted lands.

**FINANCIAL ADMINISTRATION UNDER THE PUBLIC TRUST AND GRANT STATUTE:** Section 2 of the Grant Statute provides the trustee shall establish a separate tidelands trust fund in such manner as may be approved by the State Lands Commission. In compliance with Section 2, the City Council adopted a Resolution June 12, 1980, establishing a trust fund called the Wharf Enterprise Fund for the receipt and deposit of all monies received directly or indirectly from granted lands under control of the City. In addition the resolution provides that the City General Fund lend \$158,000 to the Fund and that said funds be paid back to the General Fund over the next twenty-five years with seven percent (7%) interest from revenues derived from the use of the tidelands. A copy of the resolution is on file in the Office of the Commission.

**DOCUMENTATION OF AN EXPRESS INTENT TO BE REIMBURSED AND FOLLOW UP REPORTS:**

The statement by the City Council in its Resolution constitutes express intent to seek reimbursement up to \$158,000. It cannot establish the actual amount or terms of reimbursement since all relevant facts cannot be determined in advance. Any reimbursement will depend on such factors as evidence of the amounts expended, whether expenditures are, as predicted, for statutory and trust purposes in the Statewide interest on granted

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lands (and adjoining lands purchased and used for those purposes), on the state of the trust accounts and so forth. Section 6 of the grant statute permits the trustee to maintain a reserve fund for the retirement of bond issues for the improvement or operation of the lands.

There are several points of contact between the trustee and the State Lands Commission. These include:

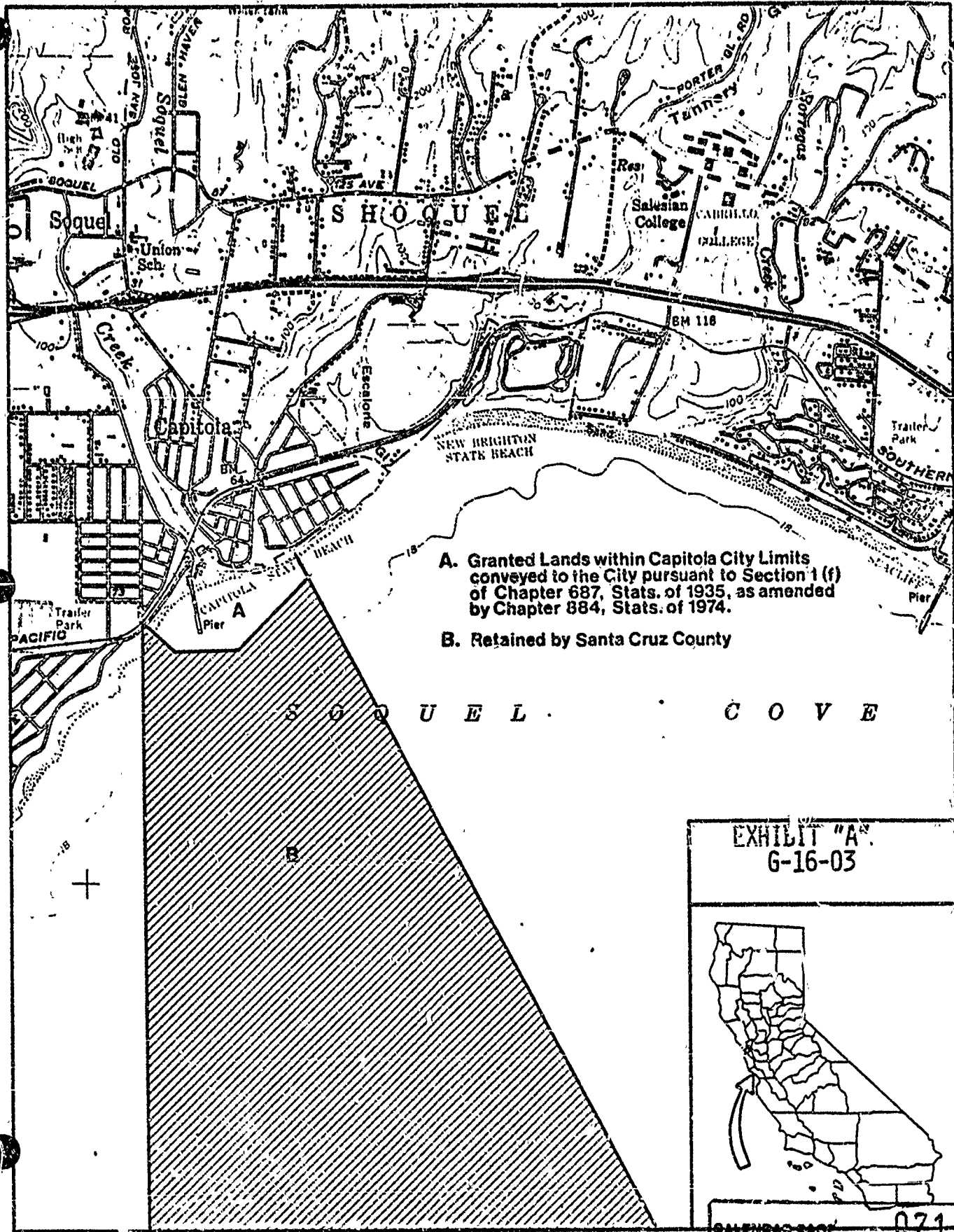
An annual statement of financial condition and operations is to be submitted to the State Lands Commission (Section 2). Any single capital improvement on the granted lands involving an amount in excess of \$250,000 must be submitted to the Commission for approval (Section 5).

Such reports will provide opportunity for the trustee to document its compliance with trust requirements and seek reimbursement from possible future revenues of the trust.

EXHIBIT: A. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE RESOLUTION ADOPTED BY THE CITY COUNCIL OF THE CITY OF CAPITOLA "ESTABLISHING A TRUST FUND FOR THE RECEIPT AND EXPENDITURE OF FUNDS DERIVED FROM GRANTED TIDELANDS UNDER THE CONTROL OF THE CITY OF CAPITOLA", ON JUNE 12, 1980, SUBSTANTIALLY CONFORMS WITH THE REQUIREMENTS OF THE GRANTING STATUTE AND CONSTITUTES EXPRESS PRIOR INTENT TO SEEK REIMBURSEMENT OF FUNDS ADVANCED TO THE TRUST UP TO \$158,000.
2. APPROVES THE RESOLUTION ADOPTED BY THE CITY COUNCIL, WITH THE PROVISION THAT ANY REIMBURSEMENT OF FUNDS ADVANCED TO THE TRUST DEPENDS ON WHETHER, IN FACT, THE TRUSTEE HAS COMPLIED WITH THE PUBLIC TRUST PRINCIPLES GOVERNING SUCH REIMBURSEMENT.



**A. Granted Lands within Capitola City Limits conveyed to the City pursuant to Section 1 (f) of Chapter 687, Stats. of 1935, as amended by Chapter 884, Stats. of 1974.**

**B. Retained by Santa Cruz County**

EXHIBIT "A"  
G-16-03



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