

MINUTE ITEM

63

02/06/89  
W 23162  
M. Howe  
D. Jacobs  
Stevenson

RECOMMENDATIONS TO THE CITY OF EMERYVILLE REGARDING  
APPROPRIATE PUBLIC TRUST NEEDS AND USES OF  
TIDE AND SUBMERGED LANDS GRANTED TO THE CITY  
BY CHAPTER 515, STATUTES OF 1919, AS AMENDED

Calendar Item 63 was pulled from the agenda prior to the meeting.

Attachment: Calendar Item 63.

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REGARDING APPROPRIATE PUBLIC TRUST NEEDS AND  
USES OF TIDE AND SUBMERGED LANDS GRANTED TO THE CITY  
BY CHAPTER 515, STATUTES OF 1919, AS AMENDED

APPLICANT: City of Emeryville  
1333 Park Avenue  
Emeryville, California 94608

At its August 28, 1986 meeting, the State Lands Commission authorized staff, in conjunction with the City of Emeryville, to conduct a public meeting concerning the extent of public trust lands within the City of Emeryville and appropriate uses of those public trust lands. The authority conferred by the Commission was sought because of a request by the City of Emeryville that the State Lands Commission provide assistance to determine the appropriate needs and uses of tide and submerged lands granted to the City by Chapter 515, Statutes of 1919, as amended. A map showing the general location of public trust lands, for reference only, is attached to this calendar item as Exhibit "A".

A public meeting was held as authorized at the Emeryville City Council Chambers and the statements offered at the meeting were transcribed by a certified shorthand reporter. A copy of this transcript is on file at the Sacramento office of the State Lands Commission. A summary of the written comments which followed the meeting, along with extracts from the transcript of the meeting itself, are in the staff report discussed below.

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Following the public meeting and written comment period, State Lands Commission and City of Emeryville staffs prepared a preliminary report on appropriate public trust needs and uses of the Emeryville tide and submerged lands. The report was based upon the oral and written testing received, staff observations of the site, and a review of scientific literature. Staff distributed the draft report for public review and comment on June 23, 1988.

Staff has received and reviewed the public comments on the draft report. A final report has been completed which responds to comments made and adds to or amends the text of the report where necessary. The principal critical comments to the report were received from Santa Fe Pacific Realty Company, the major owner of a fee interest (subject to a public trust easement) in much of the tide and submerged lands addressed in the report. Santa Fe's comments are addressed point by point in the response section of the final report. This final report has been distributed to the members of the Commission under separate cover and is incorporated into this calendar item by this reference.

The final report states that the Emeryville study area is an important resource in the San Francisco Bay estuarine system and substantiates a course of action requiring that the trust lands within the study area are best used for particular purposes.

According to comments from members of the public and representatives of governmental bodies and the weight of written evidence, the most pressing public need for the area to the south of Powell Street to the southwest corner of the Emeryville peninsula (known as the "Emeryville Crescent") is preservation of those lands in their natural state as a functional intertidal and subtidal ecosystem. The tideland habitats on the north side of the Emeryville peninsula to the Berkeley City line also provide a valuable estuarine support system for birds and the organisms they rely on for sustenance, but are not as sensitive to disturbance as the area of the Crescent. Staff's recommendation is that the northern area be preserved in its natural state also but with recognition of low intensity recreational uses such as fishing and boating. Some minor fill may be allowed along the Bay frontage road for public access and recreational uses.

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Staff supports the findings made below which are recommendations to the City of Emeryville for its ultimate determination as grantee of the public trust lands within the study area.

AB 884: N/A.

EXHIBIT: A. Plat of Trust Exercise Parcel in its general location. This is for reference only and is not to be relied upon to set boundaries of public trust lands.

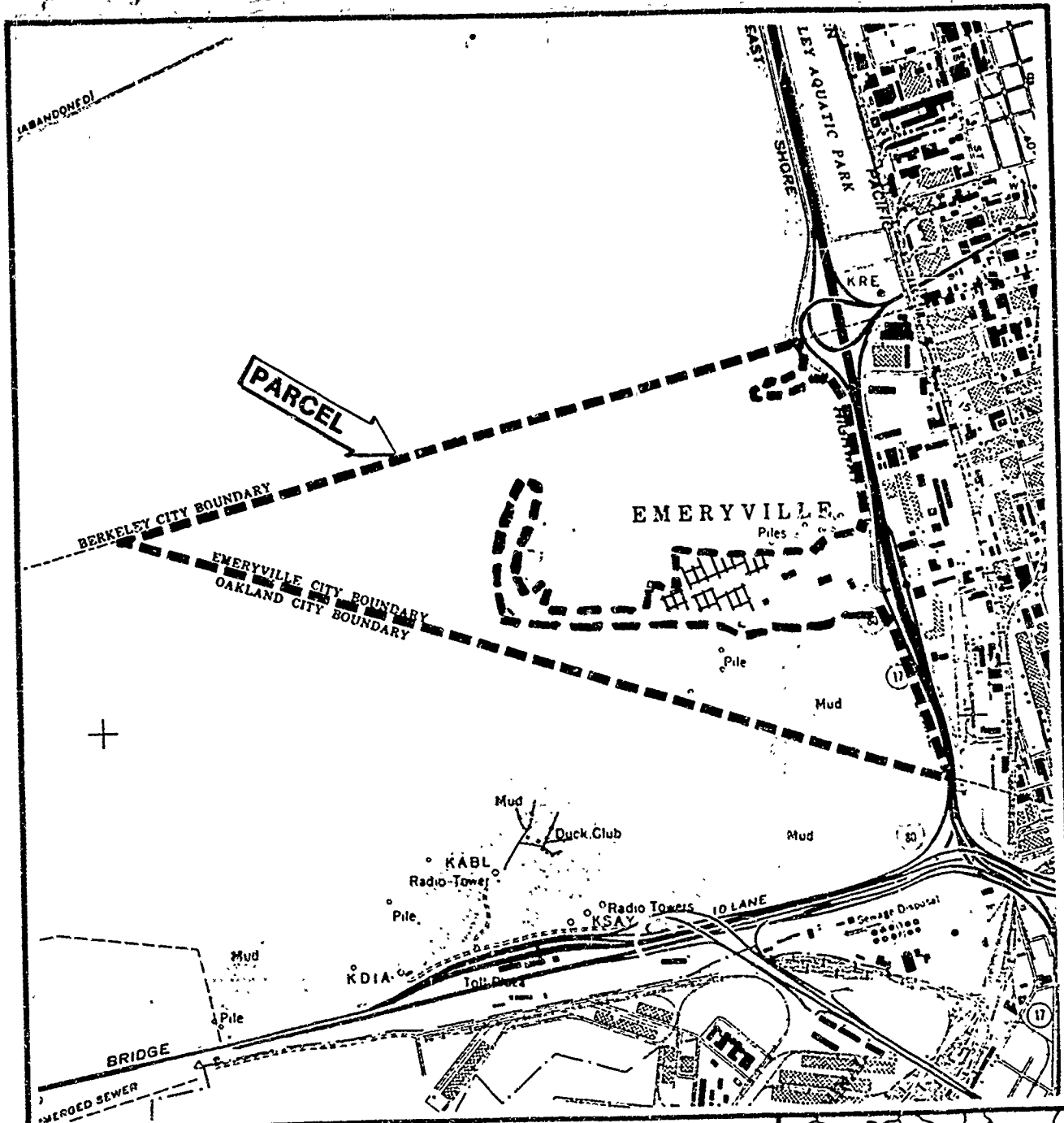
IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE PARCEL OF REAL PROPERTY IN THE CITY OF EMERYVILLE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DEPICTED AS THE TRUST EXERCISE PARCEL, WAS AT THE TIME OF STATEHOOD AND CONTINUOUSLY THEREAFTER HAS BEEN, UNFILLED AND SUBJECT TO TIDAL ACTION.
2. FIND THAT THE CITY OF EMERYVILLE, AS GRANTEE IN TRUST PURSUANT TO CHAPTER 515, STATUTES OF 1919, ADMINISTERS THE PUBLIC TRUST EASEMENT OVER THAT PART OF THE TRUST EXERCISE PARCEL WITHIN BOARD OF TIDELANDS COMISSIONERS (BTLC) LOTS AND ADMINISTERS, BY LEGISLATIVE GRANT, A FEE INTEREST IN THOSE AREAS OF THE TRUST EXERCISE PARCEL NOT WITHIN BTLC LOTS.
3. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.
4. FIND THAT IT IS IN THE STATEWIDE PUBLIC INTEREST TO RECOMMEND TO THE CITY OF EMERYVILLE TO EXERCISE THE PUBLIC TRUST FOR THE PURPOSE OF PRESERVATION OF THE TIDE AND SUBMERGED LANDS TO THE SOUTH OF POWELL STREET TO THE SOUTHEAST CORNER OF THE EMERYVILLE PENINSULA IN THEIR NATURAL STATE, AS ECOLOGICAL UNITS FOR SCIENTIFIC STUDY, AS OPEN SPACE, AND AS AN ENVIRONMENT WHICH PROVIDES FOOD AND HABITAT FOR BIRDS AND MARINE LIFE AND WHICH FAVORABLY AFFECTS THE SCENERY AND CLIMATE OF THE AREA AND FURTHER, THAT PUBLIC FISHING, BOATING, AND ACCESS AND RECREATION NOT BE PERMITTED ON THOSE LANDS.
5. FIND THAT IT IS IN THE STATEWIDE PUBLIC INTEREST TO RECOMMEND TO THE CITY OF EMERYVILLE TO EXERCISE THE PUBLIC

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TRUST FOR THE PURPOSE OF PRESERVATION OF LANDS ON THE WEST SIDE OF THE EMERYVILLE PENINSULA AND TO THE WEST AND NORTH OF THE EMERYVILLE PENINSULA IN THEIR NATURAL STATE, AS ECOLOGICAL UNITS FOR SCIENTIFIC STUDY, AS OPEN SPACE, AND AS ENVIRONMENTS WHICH PROVIDE FOOD AND HABITAT FOR BIRDS AND MARINE LIFE AND WHICH FAVORABLY AFFECT THE SCENERY AND CLIMATE OF THE AREA AND FURTHER, THAT PUBLIC FISHING, BOATING, AND ACCESS AND RECREATION BE PERMITTED TO THE EXTENT THE ECOLOGICAL NEEDS OF THE TRUST EXERCISE PARCEL ARE NOT DAMAGED THEREBY, INCLUDING MINOR FILL ALONG THE BAY FRONTAGE ROAD NEEDED FOR BEACH IMPROVEMENT.

6. AUTHORIZE THE COMMISSION STAFF AND/OR THE OFFICE OF THE ATTORNEY GENERAL TAKE ALL FURTHER STEPS REASONABLE, NECESSARY, OR APPROPRIATE TO IMPLEMENT THOSE FINDINGS, INCLUDING THE APPEARANCE ON BEHALF OF THE COMMISSION IN ANY LITIGATION OR ADMINISTRATIVE HEARING RESPECTING THE SUBJECT HEREOF.



STATE LANDS COMMISSION

**TRUST EXERCISE PARCEL**



Prepared by:

Date: 11/22/88 A:13 S: 9

EXHIBIT

Title Study: **EMERYVILLE TIDELANDS** W 23162

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N49 E147;148

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