

MINUTE ITEM

This Calendar Item No. 34
was approved as Minute Item
No. 34 by the State Lands
Commission by a vote of 3
to 0 at its 4/26/89
meeting.

CALENDAR ITEM

34

A 20
S 11

04/26/89
W 23682
G 14-04
AD 93
Plummer

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

PARTY: Jean C. Sperry
c/o John Briscoe
Washburn, Briscoe, & McCarthy
144 Second Street
San Francisco, California 94105

A title dispute exists between the State, in its sovereign capacity, the City of San Mateo, as grantee ("City"), and Jean C. Sperry ("Sperry") concerning ownership of approximately 1.2 acres of real property located in the City of San Mateo, San Mateo County. The real property is referred to as the Settlement Parcel, and is described in Exhibit "A" and depicted in Exhibit "B".

Sperry is the current record owner of the Settlement Parcel as successor-in-interest to a State patent which characterized the land as swamp and overflowed.

City, by Chapter 536 of the Statutes of 1915, as amended, was granted all right, title, and interest of the State on and to all the salt marsh, tidelands and submerged lands within the City, in trust for harbor purposes, subject to certain terms, conditions, and reservations.

Sperry contends that the State patent conveyed all right, title, and interest of the State within the Settlement Parcel, without any reservations, to the State, express or implied, and that it now holds title to the property, free and clear of any State right, title, or interest.

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The staff of the State Lands Commission has conducted a study of the evidence of title to the Settlement Parcel and has drawn a number of factual conclusions, including those summarized below:

1. The parcel includes filled and reclaimed historic wetlands which formerly consisted of marsh and sloughs.
2. It was in its last natural state covered, at least in part, by the ordinary tides of San Francisco Bay, the precise extent of coverage being subject to dispute.
3. The Settlement Parcel, in whole or in part, is within lands granted by the Legislature to the City pursuant to Chapter 536 of the Statutes of 1915, as amended.

The staff is of the opinion that the title evidence and the applicable legal principles lead to the conclusion that the State, in its sovereign capacity, and its grantee, the City of San Mateo, are the owners of some public trust right, title, or interest in the Settlement Parcel. The exact extent and nature of the State's and City's interest is, however, subject to uncertainty and dispute.

The property has been filled and reclaimed and is no longer covered by the waters of San Francisco Bay.

The area surrounding the parcels is generally developed in residential use. The property adjacent to and southwesterly of the Settlement Parcels is owned by the City and is used for sewage treatment and flood control purposes. These facilities and existing improvements on the Settlement Parcels render the area relatively unsuitable for public use and access at this time.

The property on the opposite shore of Marina Lagoon was acquired by the Commission in a 1978 title settlement, and is accessible to the general public.

Sperry has offered to resolve the title dispute by written agreement in compromise settlement of the legal and evidentiary issues. The staff of the State Lands Commission recommends approval of the settlement in substantially the form of the agreement now on file with the Commission.

While the agreement sets forth all the specific terms and conditions of the settlement, a brief summary of some of the principal terms and conditions of the settlement is set forth below, as follows:

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1. Sperry will deposit the sum of \$25,000 into the Kapiloff Land Bank Fund which is administered by the State Lands Commission as trustee pursuant to P.R.C. 8600 et seq.
2. Sperry will deed an easement for public access along the easterly and waterward portion of the Settlement Parcel, as described in Exhibit "C", attached hereto.
3. The City will quitclaim all right, title, and interest it may have in the Settlement Parcel by virtue of Chapter 536 of the Statutes of 1915, as amended, to the State for purposes of effectuating the compromise settlement agreement.
4. In exchange for the above transfer of funds by Sperry to the State, the State will convey to Sperry all its sovereign right, title, and interest in the Settlement Parcel.
5. City will use its best efforts to identify, and State, as trustee of the Land Bank Fund, will use its best efforts for three years to acquire available lands within the City which are useful for public trust purposes, with the monies deposited into the Land Bank Fund pursuant to the compromise settlement agreement.
6. The agreement provides for an escrow and will be effective upon its recordation. Escrow fees and any title insurance will be without cost to the State.

Staff has appraised the Settlement Parcel and has evaluated the law and evidence bearing on the title dispute, and is of the opinion that the sum of \$25,000 is equal to or greater than the value of the State's interest in the Settlement Parcel.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

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

Authority: P.R.C. 21080.11.

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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. Settlement Parcel Description.
 B. Settlement Parcel Plat.
 C. Easement Description.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS.
2. FIND THAT WITH RESPECT TO THE PROPOSED COMPROMISE TITLE SETTLEMENT AGREEMENT, INCLUDING THE EXCHANGE OF THE STATE'S INTEREST IN THE SETTLEMENT PARCEL FOR FUNDS WITH WHICH TO BUY AN EXCHANGE PARCEL:
 - A. THE AGREEMENT IS IN THE BEST INTEREST OF THE STATE FOR THE IMPROVEMENT OF NAVIGATION: THE ENHANCEMENT OF THE CONFIGURATION OF THE SHORELINE FOR THE IMPROVEMENT OF THE WATER AND THE UPLAND: AND THE PROTECTION, PRESERVATION, AND ENHANCEMENT OF THE TIDELANDS AND SUBMERGED LANDS AND PUBLIC ACCESS THERETO, PURSUANT TO THE PUBLIC TRUST.
 - B. THAT THE MONIES RECEIVED BY THE STATE ARE OF A VALUE EQUAL TO OR GREATER THAN THE VALUE OF THE INTERESTS IN THE SETTLEMENT PARCEL BEING RELINQUISHED BY THE STATE.
 - C. THE SETTLEMENT PARCEL HAS BEEN IMPROVED, RECLAIMED AND FILLED, HAS BEEN EXCLUDED FROM THE PUBLIC CHANNELS, AND IS NO LONGER AVAILABLE OR USEFUL OR SUSCEPTIBLE OF BEING USED FOR NAVIGATION AND FISHING AND IS NO LONGER, IN FACT, TIDELAND OR SUBMERGED LAND.
 - D. THE PARTIES HAVE A GOOD FAITH AND BONA FIDE DISPUTE AS TO THEIR RESPECTIVE INTERESTS WITHIN THE SETTLEMENT PARCEL.
 - E. THE PROPOSED AGREEMENT CONSTITUTES A COMPROMISE OF THE CONTESTED ISSUES OF LAW AND EVIDENCE UPON WHICH THE DISPUTE IS BASED.
 - F. THE AGREEMENT IS IN LIEU OF THE COSTS, DELAYS, AND UNCERTAINTIES OF TITLE LITIGATION, IS CONSISTENT WITH, AND IS AUTHORIZED BY, THE REQUIREMENTS OF LAW.

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- G. ON THE EFFECTIVE DATE OF THE AGREEMENT, AND CONSISTENT WITH ITS TERMS, THE SETTLEMENT PARCEL WILL NO LONGER BE NECESSARY OR USEFUL FOR THE PURPOSES OF THE PUBLIC TRUST AND THE PUBLIC TRUST INTEREST MAY BE TERMINATED.
3. APPROVE AND AUTHORIZE THE EXECUTION, ACKNOWLEDGEMENT, AND RECORDATION, ON BEHALF OF THE COMMISSION, OF THE FOLLOWING DOCUMENTS:
- A. THE COMPROMISE TITLE SETTLEMENT AGREEMENT IN SUBSTANTIALLY THE FORM OF THE COPY OF SUCH AGREEMENT ON FILE WITH THE COMMISSION.
- B. A PATENT OF THE SETTLEMENT PARCEL IN SAN MATEO COUNTY, CALIFORNIA, DESCRIBED IN EXHIBIT "A" FREE OF THE PUBLIC TRUST.
- C. A CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDING THE GRANT OF EASEMENT TO BE RECEIVED BY THE STATE.
4. AUTHORIZE AND DIRECT THE STAFF OF THE STATE LANDS COMMISSION AND/OR THE CALIFORNIA ATTORNEY GENERAL TO TAKE ALL NECESSARY OR APPROPRIATE ACTION ON BEHALF OF THE STATE LANDS COMMISSION, INCLUDING THE EXECUTION, ACKNOWLEDGEMENT, ACCEPTANCE, AND RECORDATION OF ALL DOCUMENTS AND PAYMENTS AS MAY BE NECESSARY OR CONVENIENT TO CARRY OUT THE COMPROMISE TITLE SETTLEMENT AGREEMENT; AND TO APPEAR ON BEHALF OF THE COMMISSION IN ANY LEGAL PROCEEDINGS RELATING TO THE SUBJECT MATTER OF THE AGREEMENT.

EXHIBIT A

SETTLEMENT PARCEL DESCRIPTION

All that certain real property situated in the City of San Mateo, County of San Mateo, State of California more particularly described as follows:

Lots 3 and 4 as shown on that certain map entitled "Shoreview Industrial Tract, San Mateo, San Mateo County, California", filed in the office of the County Recorder of San Mateo County on July 10, 1964 in Book 60 of Maps at page 39.

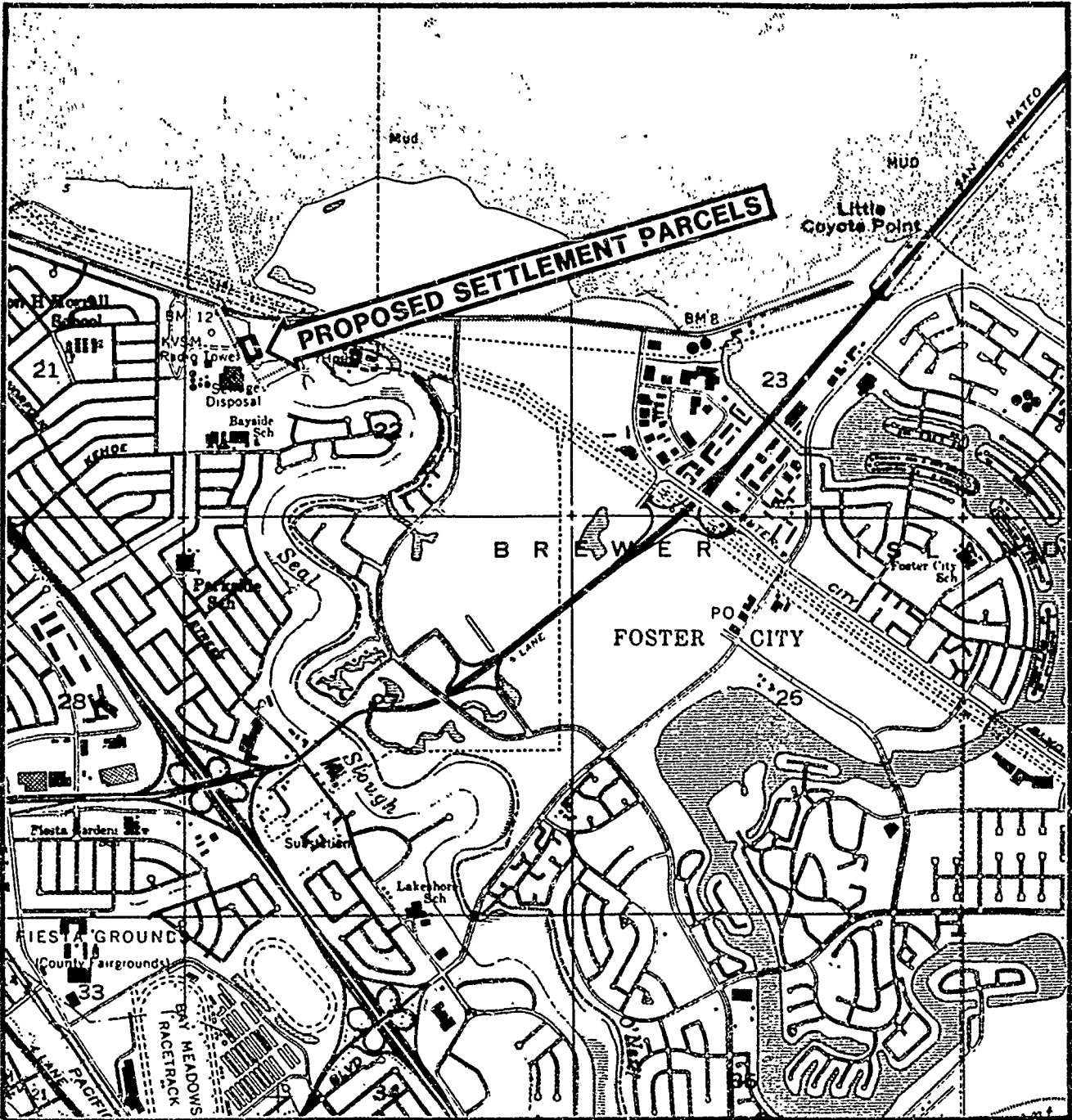
Subject to: A NON-MOTORIZED easement, described as follows:

A strip of land 10.00 feet in width, measured at right angles, contiguous to and lying generally Westerly of the Easterly line of Lots 3 and 4 as described above, said easement extending from the Southeasterly line of Lot 4 to the Northeasterly line of Lot 3.

END OF DESCRIPTION

PREPARED APRIL 6, 1989 BY THE BOUNDARY INVESTIGATION UNIT NO. 4, RAND LA FORCE, SUPERVISOR.

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STATE LANDS COMMISSION

**PROPOSED
SETTLEMENT PLAT**



Prepared by: **B. LEE** Date: **9-12-88** A: 20 S: 11

EXHIBIT B

Title Study: **San Mateo / Marina Lagoon** W 23682

Z 3 -N39-E 148

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W 23682

EXHIBIT C
EASEMENT DESCRIPTION

A NON-MOTORIZED easement, over and across all that certain real property situate in the City of San Mateo, County of San Mateo, State of California more particularly described as follows:

A strip of land 10.00 feet in width, measured at right angles, contiguous to and lying generally Westerly of the Easterly line of Lots 3 and 4 as shown on that certain map entitled "Shoreview Industrial Tract, San Mateo, San Mateo County, California", filed in the office of the County Recorder of San Mateo County on July 10, 1964 in Book 60 of Maps at page 39, said easement extending from the Southeasterly line of Lot 4 to the Northeasterly line of Lot 3.

END OF DESCRIPTION

PREPARED APRIL 6, 1989 BY THE BOUNDARY INVESTIGATION UNIT NO. 4, RAND LA FORCE, SUPERVISOR.

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