



SPECIAL AND REGULAR MEETING

**BOARD OF DIRECTORS
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT**

Wednesday, August 28, 2024

*The Board of Directors conducted this meeting in accordance with
California Government Code section 54953.*

DRAFT MINUTES

**SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA
REGIONAL OPEN SPACE DISTRICT**

President MacNiven called the special meeting of the Midpeninsula Regional Open Space District to order at 5:30 p.m.

ROLL CALL

Members Present: Karen Holman, Zoe Kersteen-Tucker, Margaret MacNiven, and Curt Riffle

Members Absent: Jed Cyr, Craig Gleason, and Yoriko Kishimoto

Staff Present: General Manager Ana Ruiz, General Counsel Hilary Stevenson, Assistant General Manager Brian Malone, Acting Assistant General Manager Jane Mark, District Clerk/Assistant to the General Manager Maria Soria, Executive Assistant/Deputy District Clerk Shaylynn Nelson, Senior Planner Jared Hart, and Senior Resource Management Specialist Julie Anderson

President MacNiven announced that the public has the opportunity to comment on the agenda, and the opportunity to listen to this meeting through the internet or via telephone. This information can be found on the meeting agenda, which was physically posted at the District's Administrative Office, and on the District website.

Director Kishimoto attended the meeting at 5:35 p.m.

1. Adoption of the Initial Study with Mitigated Negative Declaration/Environmental Assessment for the Highway 17 Wildlife and Regional Trail Crossings and Trail Connections Project (R-24-104)

Senior Planner Jared Hart presented on the adoption of Initial Study with Mitigated Negative Declaration/Environmental Assessment for the Highway 17 Wildlife and Regional Trail

Crossings and Trail Connections project. Mr. Hart highlighted the project's inclusion in the Measure AA Portfolio #20, and its public ranking as a high priority as part of the Vision Plan, with goals to create safe corridors for mountain lions and establish a Bay Area Ridge Trail connection across Highway 17. He provided an overview of the project, its site, history, partners, stakeholders, and community outreach efforts, noting six community meetings and over 40 stakeholder meetings were held, garnering positive support. The District and Caltrans prepared a joint Initial Study with Mitigated Negative Declaration/Environmental Assessment (ISMND/EA) with a Finding of No Significant Impact in accordance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). The District and Caltrans have now finalized the CEQA/NEPA document for Board consideration and adoption. He noted that the northern overcrossing alternative will move into PS&E, but if something unexpected were to occur whereby the northern overcrossing is no longer pursued, the project would shift to the other project alternative studied in the environmental document known as the southern overcrossing alternative.

Mr. Hart reported that the ISMND/EA determined that the project would have no unmitigable significant environmental impacts. Based on the analysis, there were two areas where the potential for significant impacts were identified. First, the project could result in a small amount of approximately 0.2-acres of temporary and 0.009-acres of permanent impacts on sensitive wetland communities. Second, the project could result in potential impacts to California red-legged frog habitat. However, with standard avoidance and mitigation measures, the impacts would be reduced to a less than significant level. He noted that because the project would result in a net benefit to the broader ecosystem, the District is working with the California Department of Fish and Wildlife (CDFW) on a potential mitigation credit agreement for the project that could provide compensatory mitigation for some, or all of the projects impacts.

During the circulation period, 11 comment letters were received, none of which identified any new significant environmental impacts. CDFW commented on the potential for the occurrence of Crotch's bumble bee. To avoid potential impacts to the bumblebee, one new avoidance and minimization measure has been added to the final environmental document to include preconstruction surveys and avoidance measures. Several comment letters were also submitted asking for the wildlife crossing to accommodate future use by tule elk and/or black bear. Based on research, the current design of the wildlife undercrossing would be sufficient to allow passage of both elk and black bears. Lastly, Mr. Hart reviewed the project timeline/next steps and reported that construction would commence in 2027 for the undercrossing and overcrossing. Construction of the trails could start as early as 2025 pending property access, funding, and staffing capacity.

Director Kishimoto inquired about the feedback received during the comment period regarding the proposed undercrossing dimensions for tule elk and black bears and how the proposed dimensions compare.

Mr. Hart explained there was a request to make the undercrossing larger but that would require either going wider or further down by a handful of feet. After consulting with the wildlife crossing expert, Dr. Tony Clevenger, and reviewing research, it was determined the current design of the undercrossing should be sufficient to accommodate elk and black bear.

Ms. Anderson explained many comments were regarding the openness ratio and findings from the expert, Dr. Clevenger, indicated that the District should not rely on the openness ratio alone,

but rather how the individual dimensions work together. For example, if the undercrossing was made deeper, it would then be longer, and that would affect the effectiveness. Staff has been assured the proposed dimensions are effective for the target species, which are mountain lion and deer, and also functional for elk and black bear.

Director Kishimoto inquired if staff has received training on Crotch's bumble bees.

Ms. Anderson responded that the newest wildlife biologist has attended trainings and is working with partnering agencies such as Valley Water and East Bay Regional Park District to better understand where they appear and how it might impact projects.

Director Kishimoto suggested that it would be great for the Board to also receive training.

Director Riffle asked what mitigation measures the District is trying to implement.

Mr. Hart stated that the analysis indicates there would be impacts on the California red-legged frog's habitat, as well as minor impacts on wetlands. These impacts include both temporary and permanent effects due to construction, with some permanent impacts to the wetlands where trails would be built. However, the affected area is only 0.009 acres and can be mitigated to a less than significant level.

Director Riffle inquired if the CDFW had a concern about a plant species on the northern crossing.

Mr. Hart confirmed that there are sensitive plant species at the trail crossing. Through the survey work conducted by the consultants, the trail alignment was adjusted to avoid these sensitive plants. As the District moves into the final design phase, staff will work to avoid any impacts on the sensitive plant species.

Director Holman noted that the project would, at times, exceed applicable noise thresholds, but it does not specify which noise thresholds are being referenced.

Ms. McIntyre explained the noise during construction is addressed specifically in the CEQA document under section 3.2.13. This section addresses the different short-term noise impacts and the noise thresholds identified in the Los Gatos General Plan, the municipal code, and the County's General Plan and Code of Ordinances. The municipal code limits construction noise to 85 decibels at 25 feet etc., and this discussion can be found on page 201 of the environmental document.

Public comment opened at 6:09 p.m.

District Clerk Maria Soria reported no public comments were submitted for the closed session.

Public comment closed at 6:09 p.m.

Motion: Director Riffle moved, and Director Kersteen-Tucker seconded the motion to adopt a Resolution adopting the Initial Study with Mitigated Negative Declaration/Environmental Assessment and Mitigation Monitoring and Reporting Program for the Highway 17 Wildlife and

Regional Trail Crossings and Trail Connections Project, in accordance with the California Environmental Quality Act (CEQA).

ROLL CALL VOTE: 5-0-0 (Absent Cyr and Gleason)

ADJOURNMENT

President MacNiven adjourned the special meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 6:11 p.m.

REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

President MacNiven called the regular meeting of the Midpeninsula Regional Open Space District to order at 7:00 p.m.

ROLL CALL

Members Present: Karen Holman, Zoe Kersteen-Tucker, Yoriko Kishimoto, Margaret MacNiven, and Curt Riffle

Members Absent: Jed Cyr, Craig Gleason

Staff Present: General Manager Ana Ruiz, General Counsel Hilary Stevenson, Assistant General Manager Brian Malone, Acting Assistant General Manager Jane Mark, District Clerk/Assistant to the General Manager Maria Soria, Executive Assistant/Deputy District Clerk Shaylynn Nelson, Conservation Grazing Program Manager Matthew Shapero, Senior Resource Management Specialist Coty Sifuentes-Winter, Resource Management Specialist II Lewis Reed, and Land and Facilities Manager Brandon Stewart

President MacNiven announced that the public has the opportunity to comment on the agenda, and the opportunity to listen to this meeting through the internet or via telephone. This information can be found on the meeting agenda, which was physically posted at the District’s Administrative Office, and on the District website.

CLOSED SESSION

President MacNiven reported that the Board of Directors meet in Closed Session on August 21, 2024 and there was nothing to report from Closed Session.

ORAL COMMUNICATIONS

Public comment opened at 7:02 p.m.

District Clerk Maria Soria reported there were no public speakers for this item.

Public comment closed at 7:02 p.m.

ADOPTION OF AGENDA

Motion: Director Riffle moved, and Director Kishimoto seconded the motion to adopt the agenda.

ROLL CALL VOTE: 5-0-0 (Absent Cyr and Gleason)

CONSENT CALENDAR

Public comment opened at 7:03 p.m.

Dan O'Day spoke on Agenda Item #4 and commented that he is a neighbor to the Graf-Scholer Property. He is in favor of the District purchasing the land. However, he would love to see a ranger stationed in that area. The property comes with assets and two driveways that could house two rangers. He suggested it is worth considering retaining these structures. He mentioned that there is a spring at the property, which is clean and well-maintained. Additionally, he commented that he has a presentation on the area's history, which is referred as the Lost Resorts of Almaden. The Lost Resorts refer to Cannon's Ranch, which is Cannon's resort that was located at the bottom of Almaden dam, and Lovely Glen. He would be happy to share it with the District, as understanding the history could be valuable for the master planning process.

General Manager Ana Ruiz explained that the Real Property Manager, Allen Ishibashi, and Assistant General Manager, Brian Malone, could collect his contact information and discuss the matter further.

Public comment closed at 7:09 p.m.

Director Riffle commented on his support of Agenda Item #3 and complimented staff and Ms. Anne Dunham for the long-standing cooperative relationship.

Director Riffle commented on Agenda Items #4 and #5 stating he was in favor for both items but requested that maps be included in the future.

Director Kishimoto expressed her thanks to the subcommittee that worked on the Hawthorns Historic Complex. She also thanked Mr. O'Day for speaking on Agenda Item #4, noting that it would be interesting to learn more about the history, and is sure staff will follow up with him.

Motion: Director Riffle moved, and Director Kishimoto seconded the motion to approve the Consent Calendar.

ROLL CALL VOTE: 5-0-0 (Directors Cyr and Gleason absent)

1. **Approve the August 14, 2024 Board meeting minutes**
2. **Approve Claims Report**
3. **Proposed Purchase of the 1.39-acre Dunham Property located in Santa Clara County (APN: 517-24-020) as an addition to El Sereno Open Space Preserve (R-24-105)**

General Manager's Recommendations:

1. Determine that the recommended actions are categorically exempt from the California Environmental Quality Act (CEQA), as set out in the staff report.
 2. Adopt a Resolution authorizing the purchase of the Dunham Property for \$900,000 with a corresponding authorization for a Fiscal Year 2024-25 budget adjustment of the same amount.
 3. Amend the Use and Management Plan for El Sereno Open Space Preserve to include the acquisition of real property, as set out in the staff report.
 4. Withhold dedication of the Dunham Property as public open space at this time.
- 4. Proposed Purchase of the 27.63-acre Graf-Scholer Property located in Santa Clara County (APN: 562-23-006) as an addition to Sierra Azul Open Space Preserve (R24-106)**

General Manager's Recommendations:

1. Determine that the recommended actions are categorically exempt from the California Environmental Quality Act (CEQA), as set out in the staff report.
 2. Adopt a Resolution authorizing the purchase of the Graf-Scholer Property for \$1,000,000 with a corresponding authorization for a Fiscal Year 2024-25 budget adjustment of the same amount.
 3. Adopt a Use and Management Plan for the Property, as set out in the staff report.
 4. Authorize the General Manager to enter into a settlement agreement with Santa Clara County Code Enforcement regarding the resolution of the unpermitted structures on the property.
 5. Authorize the General Manager to initiate plans for demolition of the structures and to bring a demolition contract award to the Board of Directors as a future item, with the exception of one structure for future staff housing if site improvements to legalize the structure fall under \$500,000.
 6. Withhold dedication of the Graf-Scholer Property as public open space at this time.
- 5. Award of Contract for Conservation Grazing Water Development at Purisima Creek Redwoods and Tunitas Creek Open Space Preserves (R-24-107)**

General Manager's Recommendations:

1. Award a contract to ECAST Engineering Inc. of Oakland, California to develop water infrastructure on two (2) Grazing Units for a not-to-exceed base contract amount of \$307,785.
 2. Authorize a 10% contingency in the amount of \$30,778 to be reserved for unanticipated issues, including weather-related constraints, difficult terrain, and access challenges, bringing the total not-to-exceed contract amount of \$338,563.
- 6. Award of Contract for Conservation Grazing Wildlife-friendly Livestock Fencing at Purisima Creek Redwoods, Cloverdale Ranch, Tunitas Creek, and Skyline Ridge Open Space Preserves (R-24-108)**

General Manager's Recommendations:

1. Award a contract to Hammer Fence & Construction Inc. of Tracy, California to construct wildlife-friendly fencing and three (3) corral replacements on five (5) Grazing Units for a not-to-exceed base contract amount of \$449,861.
2. Authorize a 10% contingency in the amount of \$44,986 to be reserved for unanticipated issues, bringing the total not-to-exceed contract amount to \$494,847.

7. Hawthorns Historic Complex – Vision and Goals (R-24-109)General Manager’s Recommendations:

1. Review and approve the Vision and Goals for the Hawthorns Historic Complex as recommended by the Hawthorns Historic Complex Ad Hoc Committee.
2. Extend the Hawthorns Historic Complex Ad Hoc Committee work to complete and present the findings to the Board of the high-level feasibility analysis for re-use of the Lower Barn, anticipated for January 2025.

BOARD BUSINESS**8. Award of Contract to Ecological Concerns, Inc., for 2024 Conservation Grazing Vegetation Management and Brush Reduction (R-24-110)**

Conservation Grazing Program Manager Matthew Shapero introduced the item and stated that the project has been a collaborative team effort amongst many District staff members and introduced Resource Management Specialist II Lewis Reed.

Mr. Reed provided historical and ecological context for brush management, explaining that the Conservation Grazing Program fulfills the full suite of goals in the Coastal Service Plan and coastal mission. This includes protecting the unique biodiversity of the landscapes, supporting and sustaining local agricultural communities and the agricultural heritage, and also a way to accomplish fuel management on the landscape to reduce the risk of catastrophic wildfires. The grasslands have unique biodiversity with a disproportionately high number of rare or special status species. Some of the challenges for protecting the biodiversity are land conversion. He stated that the District protects large tracts of land to promote and protect grassland biodiversity, and sometimes that is not enough whereby active management is required. Other factors that affect grassland integrity and health include the presence or lack of sufficient disturbances, the introduction and expansion of invasive exotic species, and high rates of brush encroachment or woody succession. Although woody succession is a natural process in ecosystems, fire suppression and now climate change are accelerating the rate of natural woody succession. The goals of brush management on conservation grazing lands are to maintain open grassland habitat and the associated biodiversity, improve the viability of conservation grazing operations, and reduce the risk of catastrophic wildfire. He emphasized the District is not trying to eradicate coyote brush or native scrub but rather introduce a disturbance regime to the landscape, where natural fire is no longer occurring, to maintain a balance.

Mr. Shapero reviewed the recent brush management efforts. The efforts have largely been opportunistic, relying on tenants who have both the equipment and interest to perform brush mowing. Efforts have primarily focused on mowing. Mr. Shapero noted that he, along with other staff, are working to expand the mowing effort. He then explained the integrated approach for brush management that involves two-steps - mowing followed up with targeted herbicide spot application 6-12 months later. Additionally, in the 3-to-5-year horizon, staff is seeking to expand the District’s prescribed fire program as another tool to manage brush. A prioritization matrix is being used to identify the priority areas for brush management. In order of importance, are: areas with high conservation values, including high biodiversity; areas where there are limited invasive species present so that there is not a flush of invasive plant growth after mowing; and areas identified as wildlife corridors. He reported that the District will not use broadcast herbicide application, or brush raking. Although these may be faster, cheaper, or more efficient, these approaches do not align with the District’s natural resources goals or objectives.

He then reviewed the one-year work plan as part of this contract: 130 acres will be mowed across four different grazing units and then returning to the four polygons on the four different grazing units for a follow-up spot spray application for a total of 225 acres in year one.

Director Kishimoto inquired why a prescribed burns is not done instead of this plan.

Mr. Shapero stated that the staff is working to establish and strengthen a prescribed fire program within the District, while also collaborating closely with fire agency partners like CalFire, with the goal of eventually implementing prescribed fire on District land, and that prescribed fire as a land management tool will take time and require a gradual approach.

Mr. Sifuentes-Winter clarified that regarding the integrated approach, the proposed method of mowing, then spraying, and mowing again has been previously implemented at Toto Ranch. Several trials were conducted to evaluate which methods are the least impactful, most cost-effective, and minimize herbicide use. The mow-spray-mow approach has proven to be one of the best.

Director Kishimoto asked how it compared to fire.

Mr. Sifuentes-Winter stated that staff will be exploring different methods for using fire. He expressed his excitement about introducing fire management into coastal grasslands as a more natural regime for a landscape-level strategy.

Director Riffle asked how many acres would be included for the \$500,000 per year.

Mr. Shapero responded that in the first year, the treatment would cover 130 acres of brush mowing and 225 acres of spot spraying. Additionally, contracts will be made with grazing tenants who have the necessary equipment and experience in mowing, bringing the total acreage for mowing to 376 acres.

Director Riffle asked how the District will measure the impact on soil and grassland health. He expressed concern that the focus is on coyote brush, and the main goal should be improving grassland health.

Mr. Sifuentes-Winter explained that coyote brush control is managed through the IPM program under the grazing category, which requires annual monitoring of brush removal. Updates on these efforts are included in the annual Vegetation report. Also, Mr. Reed conducts regular conservation grazing monitoring, focusing on residual dry matter and other impacts. For instance, recently timed mowing at Rancho San Antonio led to a notable increase in tarweed, a native species. Additionally, monitoring includes wildlife such as California red-legged frogs, badgers, and the San Francisco garter snake, to assess the effects of our management practices and adjust as needed.

Land and Facilities Manager Brandon Stewart noted the Annual Rangeland Management report requires a cooperative conversation between Land and Facilities and Natural Resources departments. Staff discuss the condition of the rangelands, as well as the successes and challenges. It also informs the following year's work plan to coordinate with the tenants and an iterative process with continuous communication between the field and the annual work plan every year.

Director Holman inquired what is being used as a baseline for the conservation leasing areas.

Mr. Sifuentes-Winter stated that staff has been using the vegetation map that was started in 2015, which is a very robust map to use as a baseline. Prior to that, herbarium records and historic photographs were used to compare what the land previously looked like. On the newer end, UC Berkeley is doing research that involves analyzing soil samples to determine the amount of fungus versus the amount of bacteria within the soil. Bacteria are known to be linked with grasslands, while fungi are associated with forest lands. By examining layers of soil, researchers can determine whether an area was forested 100, 200, or even 1,000 years ago. These data points help understand a site's history and how it's evolving over time. However, the goal is not to revert to the past but to restore the natural processes to the area.

Mr. Reed noted that paleo research, such as the work by James Bartolome's lab at UC Berkeley, has conducted work with phytoliths, which are tiny bits of fossilized plant tissues in the soil. Their research reveals that the central coast landscapes that are currently dominated by coyote brush scrub has had a long history of grassland cover. The research also identified specific grass types from those residues. He mentioned that the San Francisco Estuary Research Institute recently studied the peninsula watershed, documenting the rapid loss of grasslands as shrublands increased. He noted that this study is available on their website.

Director Holman requested the link to that study.

Director Kersteen-Tucker inquired whether the goal of the upcoming work is to achieve no new net brush encroachment or to beat it back a bit based on a baseline established.

Mr. Sifuentes-Winter mentioned that a mapping effort was conducted a few years ago. The mapping will be redone with partner agencies to compare changes over time. This will help determine the rate of brush encroachment. A limiting factor is the IPM Program or CEQA document, which restricts brush removal to 750 acres annually. If the encroachment rate is less than 750 acres per year, then we would be able to regain some of those grasslands for improved biodiversity. However, if the rate exceeds 750 acres per year, the CEQA document and IPM Program may need to be reconsidered to allow for increased treatment.

Director Kersteen-Tucker noted that there was significant community interest during the Agriculture Policy work in making more land available for conservation grazing. She suggested that being more aggressive in brush management could potentially open up additional lands for conservation grazing leases, which would benefit both the District and the community. She emphasized the importance of considering this as the work progresses.

Mr. Shapero stated that he could not immediately think of any property currently unavailable for conservation grazing that would become available due to brush management efforts. However, he noted that existing and future properties would become more productive and have a greater carrying capacity in an agricultural context if brush management activities are pursued.

Public comment opened at 8:09 p.m.

Ms. Soria reported there were no public speakers for this item.

Public comment closed at 8:09 p.m.

Motion: Director Kersteen-Tucker moved, and Director Kishimoto seconded the motion to:

1. Award a contract to Ecological Concerns, Inc., of Santa Cruz, CA for the 2024 Conservation Grazing Vegetation Management and Brush Reduction for an initial one-year term (Year 1) in the amount of \$460,096.
2. Authorize the General Manager to extend the contract for up to three additional one-year terms, based on contractor performance for a not-to-exceed base contract amount of \$2,035,096 over a total of four years.
3. Authorize a 15% contingency in the amount of \$305,264 over the four-year term to address unforeseen issues, for a total not-to-exceed contract amount of \$2,340,360 over the four-year term.

ROLL CALL VOTE: 5-0-0 (Directors Cyr and Gleason absent)

INFORMATIONAL REPORTS

A. Committee Reports

None

B. Staff Reports

None

C. Director Reports

Director Riffle reported that the Bear Creek Stables Ad Hoc Funding and Partnership Working Group held two meetings and praised the 5-member team for their strong engagement and noted that they are making good progress.

Director Holman echoed the praise for her Working Group. She noted that Mike, a member of her team is present at tonight’s meeting. She highlighted their hard work, commitment, thoughtfulness, and experience. She expressed hope for a positive and collaborative outcome. She also acknowledged the members of the public and hoped that they found the discussion and responses interesting and thanked them for attending the meeting.

Director Kishimoto reported that she attended a BCDC meeting on August 15.

President MacNiven reported that Assemblymember Josh Becker held a community outreach meeting at Skyline Ridge Open Space Preserve. She appreciated that he chose to host the meeting at a District preserve.

ADJOURNMENT

President MacNiven adjourned the regular meeting of the Board of Directors of the Midpeninsula Regional Open Space District into a special meeting at 8:14 p.m.

SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT – CLOSED SESSION

ROLL CALL

Members Present: Craig Gleason, Karen Holman, Zoe Kersteen-Tucker, Yoriko Kishimoto, Margaret MacNiven, and Curt Riffle

Members Absent: Jed Cyr

Staff Present: General Counsel Hilary Stevenson and Human Resources Manager Candice Basnight

Public comment opened at 8:15 p.m.

Ms. Soria reported there were no public speakers for this item.

Public comment closed at 8:15 p.m.

The Board convened into closed session at 8:15 p.m.

1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957(b)(1))

Title of Employee: General Counsel

ADJOURNMENT

President MacNiven adjourned the special meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 10:10 p.m.

Maria Soria, MMC
District Clerk