



SPECIAL AND REGULAR MEETING

BOARD OF DIRECTORS MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

Administrative Office
330 Distel Circle
Los Altos, CA 94022
Wednesday, December 13, 2017

DRAFT MINUTES

SPECIAL MEETING

President Hassett called the special meeting of the Midpeninsula Regional Open Space District to order at 6:00 p.m.

ROLL CALL

Members Present: Jed Cyr, Nonette Hanko, Larry Hassett, Yoriko Kishimoto Curt Riffle, and Pete Siemens

Members Absent: Cecily Harris

Staff Present: General Manager Steve Abbors, General Counsel Sheryl Schaffner, Assistant General Manager Ana Ruiz, Chief Financial Officer/Administrative Services Director Stefan Jaskulak, Acting Assistant General Manager Christine Butterfield, District Clerk/Assistant to the General Manager Jennifer Woodworth, Real Property Manager Mike Williams; Land and Facilities Manager Brian Malone

1. Proposed Quitclaim of a Cultural Conservation Easement to the Amah Mutsun Tribal Band over the Mount Umunhum property (Santa Clara County Assessor's Parcel Number 562-08-003) at Sierra Azul Open Space Preserve, related Memorandum of Agreement, and amendment of the property's Use and Management Plan (R-17-131)

Real Property Manager Mike Williams presented the staff report describing the area to be included in the proposed conservation easement and explained the purpose of a conservation easement to impose limitations, restrictions and some affirmative obligations, which include natural, resource, scenic and open space values; availability for recreational and open space uses; protecting natural resources; maintaining or enhancing air or water quality; or preserving the historical, archeological or cultural aspects of real property. Mr. Williams summarized the public benefits provided by the Amah Mutsun with the proposed conservation easement and the conservation values of the site, including the cultural and historic, educational, natural resources, and scenic and open space values of the proposed conservation easement.

Director Harris arrived at 6:04 p.m.

Mr. Williams outlined the proposed affirmative activities included in the proposed conservation easement, including, restoration, conservation, and stewardship of natural and cultural resources; providing cultural and ecological education services; engagement in traditional, cultural, and education activities; performance of cultural resources research on Mount Umunhum; and hosting tribal ceremonies at the Ceremonial Space. The proposed conservation easement also prohibits development of the property for commercial or industrial uses; subdivision of the property; and building or expansion of existing or new buildings other except for employee or residence uses for land management purposes. The District reserves the right to manage the land consistent with the Board-approved Mount Umunhum Restoration and Public Access Project, such as vegetation management, radar tower repairs, public recreational use, law enforcement, etc. Finally, Mr. Williams outlined the terms of the proposed Memorandum of Agreement.

Director Riffle inquired regarding the possible building of a roundhouse on the site.

Mr. Williams explained any future roundhouse would require environmental study and Board approval.

General Counsel Sheryl Schaffner explained that language related to a possible roundhouse was included in the proposed memorandum of agreement to allow for any future building of a roundhouse would not be in violation of the proposed conservation easement.

Director Riffle inquired regarding what regulations would be in place to ensure any use of fire was done in a safe manner. Additionally, the lack of water on the site could further complicate use of fire at the site.

Mr. Williams explained a District permit would be required and is subject oversight and approval by the Visitor Services department to prevent accidental forest fires in windy and/or dry conditions.

Ms. Schaffner explained the proposed conservation easement does not include any provisions for the District to provide water.

Director Kishimoto spoke in favor of the tribal garden being open to public access.

Mr. Williams explained the tribal garden will be open for docent-led education programs, but the tribal band may want to monitor visitors entering the garden to prevent visitor harvesting of the plants there. Additionally, the tribal garden will be visible from public trails and educational and interpretive materials will be available for public consumption.

Director Kishimoto expressed her support for any future changes to the proposed conservation easement to be brought to the Board of Directors for approval rather than administrative approval by staff, who would then inform the Board of any changes.

Director Harris inquired if other groups would be able to have permitted events on the site.

Ms. Schaffner stated the District reserves the right to permit other events on the site that would also be required to follow the District's regulations, as would the Amah Mutsun Tribal Band.

Director Harris inquired whether the proposed conservation easement could ever be severed at a future date.

Ms. Schaffner explained language is included in the proposed conservation easement to allow for extinguishing the conservation easement.

Director Cyr inquired how the area currently closed to the public is signed.

Land and Facilities Manager Brian Malone reported the District's standard "closed area" signs are used as they are throughout the District.

Public comment opened at 6:36 p.m.

Gary Wesley of Mountain View spoke regarding the permanent nature of the proposed conservation easement that could not be altered by a future General Manager or Board of Directors. Mr. Wesley spoke regarding the need for the Board to read the documents in detail.

Basim Jaber spoke in favor of the proposed conservation easement to allow the Amah Mutsun to provide educational opportunities. Mr. Jaber stated his belief that the radar tower should not be included in the proposed conservation easement and suggested the prohibition on using the radar tower should be removed from the proposed conservation easement.

Eck Ong Kar Singh Khalsa spoke in favor of the proposed conservation easement explaining the Amah Mutsun Tribal Band will be able to provide resources to the District, protect the cultural and natural resources of the site, and provide educational opportunities to the public.

Valentin Lopez responded to questions previously asked regarding the tribal band's proposed use of the site. Mr. Lopez explained the native plants for the proposed tribal garden would not need water after the first two years during which time the tribal band would work with the District to bring water to the site. Mr. Lopez reported he has already spoken with Visitor Services department staff to discuss safe use of fire on the site to prevent the possibility of forest fire. Mr. Lopez discussed the proposed easement as an opportunity for the Ohlone people and Amah Mutsun to have a voice and an opportunity to return to the lands.

Nancy Park spoke in favor of the proposed conservation easement and its positive effect on the well-being of those in the area and the Amah Mutsun people. Ms. Park thanked staff and the Board for bringing forward the proposed conservation easement.

Mark Hylkema, Santa Cruz district archaeologist, spoke in favor of the proposed conservation easement and spoke regarding other conservation easements with the Amah Mutsun with other organizations. Additionally, Mr. Hylkema spoke regarding the service of Native American veterans.

Lester Earnest spoke in favor of the proposed conservation easement and spoke regarding continued public access to the site. Mr. Earnest spoke in favor of demolishing the radar tower because the technology used there was fraudulent.

Public comment closed at 7:02 p.m.

Director Kishimoto spoke in favor of the proposed conservation easement and the need to learn from Native Americans. Director Kishimoto suggested two alterations to the documents:

To Section 7(d) of the Quitclaim Deed to read “To provide public access for recreational uses in all areas except for i) within the Tribal Garden Area, except as provided for in the MOA;”

To the end of Section 4 of the resolution approving the Memorandum of Approval: “Any such revisions shall be brought back to the Board for approval, in advance of its execution.”

Director Hanko spoke in favor of the proposed conservation easement.

Director Harris expressed concern regarding Section 2(F) of the Memorandum of Understanding related to grants and fundraising.

Ms. Schaffner explained the clause was included to allow the District and Amah Mutsun to leverage their partnership to secure outside funding to further a mutual shared vision.

Motion: Director Kishimoto moved, and Director Cyr seconded the motion to:

1. Determine that the activities authorized under the recommended actions have previously been evaluated in the *Mount Umunhum Environmental Restoration and Public Access Project Final Environmental Impact Report* and have been mitigated to less than significant by the Mitigation Measures adopted as part of the Project, and that there will be no new significant environmental effects or substantial increase in the severity of previously identified significant effects.
2. Determine that the Quitclaim of a Cultural Conservation Easement, and amendment to the Use and Management Plan are categorically exempt under the California Environmental Quality Act (CEQA), as set out in the staff report.
3. Adopt a Resolution authorizing the Quitclaim of a Cultural Conservation Easement to the Amah Mutsun Tribal Band, including the changes suggested by Director Kishimoto.
4. Adopt a Resolution authorizing the General Manager to enter into a Memorandum of Agreement with the Amah Mutsun Tribal Band for implementation of authorized activities included in the Cultural Conservation Easement, including the changes suggested by Director Kishimoto.
5. Adopt the Amended Use and Management Plan, as set out in the staff report.

VOTE: 7-0-0

ADJOURNMENT

President Hassett adjourned the special meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 7:20p.m.

REGULAR MEETING

President Hassett called the regular meeting of the Midpeninsula Regional Open Space District to order at 7:40 p.m.

ROLL CALL

Members Present: Jed Cyr, Cecily Harris, Larry Hassett, Yoriko Kishimoto Curt Riffle, and Pete Siemens

Members Absent: Nonette Hanko

Staff Present: General Manager Steve Abbors, Assistant General Manager Ana Ruiz, General Counsel Sheryl Schaffner, Chief Financial Officer/Administrative Services Director Stefan Jaskulak, Acting Assistant General Manager Christine Butterfield, District Clerk/Assistant to the General Manager Jennifer Woodworth

ORAL COMMUNICATIONS

No speakers present.

ADOPTION OF AGENDA

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

VOTE: 6-0-0 (Director Hanko absent)

SPECIAL ORDERS OF THE DAY

- Proclamations Honoring Thomas Lausten and Frances Reneau on their Retirements

CONSENT CALENDAR

Public comment opened at 7:57 p.m.

No speakers present.

Public comment closed at 7:57 p.m.

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

VOTE: 6-0-0 (Director Hanko absent)

1. Approve December 6, 2017 Minutes

Director Harris explained that her remarks related to open space in Redwood City were specific to open space located in downtown Redwood City.

2. Claims Report

3. Annual Dedication Report of Certain District Lands (R-17-138)

General Manager's Recommendation: Accept the annual report on the status of dedicated interests in District lands held for public open space purposes.

4. Proposed Purchase of the Lobitos Creek Conservation and Public Trail Easement from the Chamberlain/Lundell Trust as an addition to the Purisima Creek Redwoods Open Space Preserve, located at the end of Lucy Lane in unincorporated San Mateo County (Portion of Assessor's Parcel Number 066-320-160) (R-17-136)

General Manager's Recommendation:

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 Lobitos Creek Conservation and Public Trail Easement at a cost of \$150,000, with a corresponding authorization for a Fiscal Year 2017-2018 budget increase of the same amount.
3. Adopt a Preliminary Use and Management Plan for the property as contained in the staff report.
4. Indicate the intention to withhold dedication of the Lobitos Creek Conservation and Public Trail Easement as public open space at this time.

5. Contract Renewals for Printing and Mailing Services (R-17-140)

General Manager's Recommendation: Authorize the General Manager to renew the contracts for printing and mailing services with Patsons Press and Dakota Press for amounts not-to-exceed \$150,000 (each) through end of Fiscal Year (FY) 2018-2019.

BOARD BUSINESS

6. Approval of Salary Adjustments and Revised Employment Agreement for Board Appointee General Counsel (R-17-141)

As a result of the Board's evaluation of the performance of the District's Board Appointees for Fiscal Year 2016-17, the Board Appointee Evaluation Committee recommends the following compensation adjustments for the General Counsel for Fiscal Year 2017-18: Increase the General Counsel's base salary by 3% to \$229,439 plus a one-time merit pay bonus of \$11,472.

The Board Appointee Evaluation Committee recommends the adoption of a resolution approving the salary adjustments set out in Recommendations and authorizing the Board President to execute a revised Board Appointee Employment Agreement.

Public comment opened at 8:00 p.m.

No speakers present.

Public comment closed at 8:00 p.m.

Motion: Director Siemens moved, and Director Harris seconded the motion to approve the Board Appointee Committee's recommendations.

VOTE: 6-0-0 (Director Hanco absent)

President Hassett presented Ms. Schaffner with a proclamation to honor her on her retirement.

7. Approval of Salary Adjustments and Revised Employment Agreement for Board Appointee Controller (R-17-142)

As a result of the Board's evaluation of the performance of the District's Board Appointees for Fiscal Year 2016-17, the Board Appointee Evaluation Committee recommends the following compensation adjustments for the Controller for Fiscal Year 2017-18: Increase the Controller's base salary by 3% to \$44,187 plus a one-time merit pay bonus of \$2,209.

The Board Appointee Evaluation Committee recommends the adoption of a resolution approving the salary adjustments set out in Recommendations and authorizing the Board President to execute a revised Board Appointee Employment Agreement.

Public comment opened at 8:01 p.m.

No speakers present.

Public comment closed at 8:01 p.m.

Motion: Director Riffle moved, and Director Cyr seconded the motion to approve the Board Appointee Committee's recommendations.

VOTE: 6-0-0 (Director Hanko absent)

8. Approval of Salary Adjustments and Revised Employment Agreement for Board Appointee General Manager (R-17-143)

As a result of the Board's evaluation of the performance of the District's Board Appointees for Fiscal Year 2016-17, the Board Appointee Evaluation Committee recommends the following compensation adjustments for the General Manager for Fiscal Year 2017-18: Increase the General Manager's base salary by 3% to \$255,024 plus a one-time merit pay bonus of \$12,751.

The Board Appointee Evaluation Committee recommends the adoption of a resolution approving the salary adjustments set out in Recommendations and authorizing the Board President to execute a revised Board Appointee Employment Agreement.

Public comment opened at 8:02 p.m.

No speakers present.

Public comment closed at 8:02 p.m.

Motion: Director Cyr moved, and Director Kishimoto seconded the motion to approve the Board Appointee Committee's recommendations.

VOTE: 6-0-0 (Director Hanko absent)

President Hassett presented Mr. Abbors with a proclamation to honor him on his retirement.

INFORMATIONAL MEMORANDUM

- Picchetti Winery Eucalyptus Tree Removal

INFORMATIONAL REPORTS

A. Committee Reports

No committee reports.

B. Staff Reports

Chief Financial Officer provided an update on the day's successful bond sale.

C. Director Reports

The Board members submitted their compensatory reports.

Director Harris suggested the District may want to consider endorsing SB5 and asked that it be brought back to the Board for consideration.

President Hassett adjourned the special meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 8:51 p.m.

Jennifer Woodworth, MMC
District Clerk