



Midpeninsula Regional
Open Space District

R-20-32
Meeting 20-07
April 6, 2020

AGENDA ITEM 7

AGENDA ITEM

Proclaim a Local Emergency due to the COVID-19 Pandemic and discuss District actions to address the Emergency

GENERAL MANAGER'S RECOMMENDATIONS

1. Adopt a Resolution proclaiming a local Midpeninsula Regional Open Space District emergency due to the COVID-19 Pandemic.
2. Discuss and consent to the formation of a new COVID-19 Ad Hoc Committee, and authorize the Board President to appoint three Directors to serve on the Committee.
3. Discuss actions taken by the General Manager to address the Emergency and provide direction regarding authority to undertake future actions.
4. Adopt a Resolution affirming the important role of access to open space during the COVID-19 Public Health Order while recognizing the need to protect the health and safety of District employees and Preserve visitors.

SUMMARY

The attached Resolution makes findings under the California Emergency Services Act allowing the Midpeninsula Regional Open Space District (District) to proclaim a local emergency in response to COVID-19, and authorizes the General Manager to take certain actions in response to the emergency.

DISCUSSION

On March 4, 2020, California Governor Gavin Newsom proclaimed a state of emergency for the State of California. Between March 16 and March 18, 2020, all nine counties in the San Francisco Bay Area, including Santa Clara County and San Mateo County, issued an order requiring residents to shelter in place through April 7, 2020 and subsequently extended through May 3, 2020 ("Public Health Order") unless extended even further, in order to slow the spread of the COVID-19 virus.

The attached Resolution makes the findings under the California Emergency Services Act that the District is operating under the existence of an emergency. It authorizes the General Manager to undertake certain actions that may be warranted in such an emergency, including making emergency purchases and taking personnel actions in order to ensure that the District is in compliance with the Public Health Order.

The Public Health Orders in Santa Clara County and San Mateo County provide that engaging in outdoor activity such as walking, hiking, or running, so long as individuals comply with the prescribed Social Distancing Requirements, are among the “Essential Activities” permitted under the Order.

Existing District policies empower the General Manager to take a number of emergency and temporary actions, including closing trails or Preserves, making emergency purchases, and taking personnel actions when necessary for District operations. Examples include:

- Board Policy 3.03, *Public Contract Bidding, Vendor and Professional Consultant Selection, and Purchasing Policy*, Section IV.A., provides that “in the case of an emergency determined by the District, or federal, state, or other local jurisdictions requiring an immediate purchase, the General Manager may authorize District staff to secure... at the lowest obtainable prices, any services, supplies, material, or labor required to respond to the emergency, regardless of the amount of the expenditure.” Such expenditures must subsequently be fully described in writing to the Board.
- The District’s Personnel Policies and Procedures, Section 1.4, states that the General Manager “shall have the authority to make exceptions to or modify the strict application of any provision of the Personnel Manual when such application would create undue hardship for the District or the employee and/or when the General Manager determines that such variance is necessary and appropriate for the efficient operation of the District.”
- The District’s Land Use Regulation ordinance, specifically Sections 200 and 805, afford administrative discretion to administer a permit program, and to temporarily close Preserves for public health and safety reasons, among other things.

To date, the General Manager has taken the following actions in response to the Public Health Order and consistent with her authority:

- Delayed project schedules and suspended the performance by contractors for non-essential District projects.
- Ordered Rangers to close heavily-trafficked Preserves (Rancho San Antonio; Mount Umunhum) when parking areas fill up, in order to foster social distancing as dictated by the Governor and local health officers.
- Temporarily closed Windy Hill Open Space Preserve on March 28 per the request of the Town of Portola Valley
- Approved telecommuting for all employees who are eligible under Administrative Policies.
- Placed certain employees on administrative leave when they are unable to telecommute, or in order to shelter in place at home due to their age or medical condition.
- Encouraged unrepresented Administrative Office employees to donate sick leave to the District’s “catastrophic leave bank” by temporarily waiving the prerequisite of requiring donors to donate vacation or other leaves along with sick leave.
- Proposed to the Field Employees Association (FEA) to enter into a temporary side letter encouraging donation of sick leave to the District’s “catastrophic leave bank” that does not include the prerequisite of requiring donors to donate vacation or other leaves along with sick leave.

In 2016 the District administratively implemented an “Emergency Operations Plan”, which anticipates a variety of emergency conditions and provides guidance and resources for responding to emergencies and coordinating with other agencies during emergency events. This administrative manual was also intended to prepare the District to recover response costs from the state and federal government.

Consistent with all of the above and in an effort to continue to implement the Public Health Order, the General Manager will continue to act consistent with the resources and sources of authority listed above. The proposed Resolution would affirm existing authority, and further delegate authority to act in other situations where the public health emergency necessitates swift action. The proposed Resolution requires that the General Manager subsequently report her actions to the Board as soon as feasible. As described below, the General Manager will consult as needed and as time and availability permits with the Board, or a subcommittee of the Board.

The Board President, consistent with Policy 1.04 regarding Board Committees, has proposed creation of a COVID-19 Ad Hoc Committee to assist in steering the District’s near-term response to the COVID-19 emergency. The ad hoc committee would serve as a resource to support the General Manager or designee(s) in policy decision-making, where discussion with Board members might be of assistance.

The Public Health Orders clearly recognize the value of engaging in outdoor activity. The second Resolution (Attachment 2) affirms the important role of the District in providing access to open space and trails while recognizing the need to protect the health and safety of District employees and Preserve visitors.

FISCAL IMPACT

To date, the fiscal impacts of the ongoing local emergency on the Fiscal Year 2019-20 budget have been minimal. The General Manager will track direct costs incurred related to the COVID-19 emergency that may be reimbursable through the state and federal government.

BOARD COMMITTEE REVIEW

There was no committee review of this item.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act.

CEQA COMPLIANCE

This item is not a project subject to the California Environmental Quality Act.

NEXT STEPS

The General Manager will proceed consistent with the authority conferred by the Board and in accordance with local, state, and federal orders related to the COVID-19 pandemic.

Attachments:

1. Resolution Proclaiming a Local Emergency
2. Resolution affirming the important role of access to open space during the period of the COVID-19 Public Health Order while also recognizing the need to protect the health and safety of District employees and Preserve visitors.

Responsible Department Head:

Ana Ruiz, General Manager

Prepared by:

Hilary Stevenson, General Counsel

Staff contact:

Hilary Stevenson, General Counsel

RESOLUTION NO. ____

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT PROCLAIMING
A LOCAL EMERGENCY DUE TO THE COVID-19 PANDEMIC**

WHEREAS, the California Emergency Services Act, Chapter 7 of the California Government Code commencing with section 8550, confers upon the governing bodies of political subdivisions of the state emergency powers necessary to protect health and safety and preserve lives and property; and

WHEREAS, the definition of “political subdivision” in California Government Code section 8557(b) includes special districts such as the Midpeninsula Regional Open Space District (“District”); and

WHEREAS, on March 4, 2020, the Governor of California proclaimed a state of emergency for the State of California, related to the COVID-19 health emergency, that included a waiver of the 30-day renewal requirement for a local emergency; and

WHEREAS, nine counties within the San Francisco Bay Area, including Santa Clara County and San Mateo County within which the District’s jurisdictional boundaries are situated, declared a local public health emergency and Shelter in Place Orders (“Shelter in Place Orders”) effective between March 17 and March 20, 2020, through May 3, 2020 unless further extended; and

WHEREAS, the aforesaid conditions of extreme peril to the safety of persons and property within the District exist and necessitate that the Board of Directors proclaim the existence of a local emergency for the Midpeninsula Regional Open Space District, and that such emergency is expected to continue until the Santa Clara County and San Mateo County Health Departments terminate the local emergency.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF MIDPENINSULA
REGIONAL OPEN SPACE DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:**

1. A local emergency now exists.
2. To allow the District to respond to this emergency and to comply with the Shelter in Place Orders, the Board affirms all temporary administrative measures implemented by the General Manager to date, and authorizes similar additional measures during the emergency, including but not limited to the following:
 - a. Approval of telecommuting arrangements for administrative office employees where appropriate.
 - b. Placing employees on administrative leave when appropriate.
 - c. Delaying project schedules for projects programmed in the current Fiscal Year 19-20 Capital Improvement and Action Plan and carried out by District staff and its contractors and consultants, in particular those not deemed “Essential Infrastructure” projects as described in the Shelter in Place Order.
 - d. Temporarily closing areas or preserves if warranted.

- e. Waiving and/or modifying certain procedures related to the use of the District employee Catastrophic Leave Bank as described in the District’s Personnel Policies and Procedures and the Memorandum of Understanding with the Field Employees Association, respectively.
- 3. The General Manager is hereby authorized to suspend, interpret, or modify District policies, including contracting and personnel policies, in a manner that protects District employees, property, and resources, and implements the Shelter in Place Order, provided that such actions are reported to the Board.
- 4. The General Manager is authorized to execute any documents and perform any acts necessary or appropriate to accomplish the intentions of this Resolution.
- 5. The District Emergency shall be deemed to continue to exist until it is terminated by the Board.
- 6. A copy of this Resolution shall be forwarded to the Director of the Governor's Office of Emergency Services.

* * * * *

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on _____, 2020, at a special meeting thereof, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

 Jed Cyr, Secretary
 Board of Directors

 Karen Holman, President
 Board of Directors

APPROVED AS TO FORM:

 Hilary Stevenson, General Counsel

I, the District Clerk of the Midpeninsula Regional Open Space District, hereby certify that the above is a true and correct copy of a resolution duly adopted by the Board of Directors of the Midpeninsula Regional Open Space District by the above vote at a meeting thereof duly held and called on the above day.

 Jennifer Woodworth, District Clerk

RESOLUTION NO. ____

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT AFFIRMING
THE IMPORTANT ROLE OF ACCESS TO OPEN SPACE DURING THE
COVID-19 PUBLIC HEALTH ORDERS WHILE ALSO RECOGNIZING
THE NEED TO PROTECT THE HEALTH AND SAFETY OF DISTRICT
EMPLOYEES AND PRESERVE VISITORS**

WHEREAS, on March 4, 2020, the Governor of California proclaimed a state of emergency for the State of California related to the COVID-19 health emergency; and

WHEREAS, nine counties within the San Francisco Bay Area, including Santa Clara County and San Mateo County within which the District’s jurisdictional boundaries are situated, declared a local public health emergency and issued Public Health Shelter in Place Orders (“Public Health Orders”) effective between March 17 and March 20, 2020, through May 3, 2020 unless further extended; and

WHEREAS, the Orders recognize that engaging in outdoor activity such as walking, hiking, or running, is among the “Essential Activities” permitted under the Orders, provided that individuals comply with the prescribed Social Distancing Requirements; and

WHEREAS, the District is charged with fulfilling its essential government function to provide open space for outdoor activity, while maintaining the health and safety of District employees and preserve visitors; and

WHEREAS, the District recognizes the physical, mental, and emotional health benefits of spending time in nature; and

WHEREAS, the District plays an important role in both Santa Clara County and San Mateo County in providing a regional greenbelt, and strives to ensure that the District can deliver its services to the community to the greatest extent possible while heeding the Public Health Orders; and

WHEREAS, maintaining the health and safety of District employees and members of the public is the District’s highest priority; and

WHEREAS, under the unprecedented current conditions, the District wants to be able to continue to allow for public access to its trails and open spaces, provided that it can be done safely and within the Social Distancing Requirements set forth in the Public Health Orders.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF MIDPENINSULA
REGIONAL OPEN SPACE DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:**

1. The Board affirms that maintaining public access to open space and trails is an important objective during the Shelter in Place Orders.
2. The Board recognizes the critical role that District employees play in operating and maintaining the Preserves, and that their health and safety, along with that of members of the public, is the District’s priority.

3. The General Manager or designee is hereby authorized and directed to take any steps necessary to allow for safe and healthy access to District Preserves, in a manner that protects the health of the public and District employees and is consistent with the Orders and any other applicable guidelines or directives from local, state, or federal health officials.

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on _____, 2020, at a special meeting thereof, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Jed Cyr, Secretary
Board of Directors

Karen Holman, President
Board of Directors

APPROVED AS TO FORM:

Hilary Stevenson, General Counsel

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Jennifer Woodworth, District Clerk