



Midpeninsula Regional
Open Space District

Board Meeting 15-31

SPECIAL AND REGULAR MEETING

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

330 Distel Circle
Los Altos, CA 94022

Wednesday, December 9, 2015

DRAFT MINUTES

SPECIAL MEETING – STUDY SESSION

CALL TO ORDER

President Siemens called the special meeting of the Midpeninsula Regional Open Space District to order at 5:00 p.m.

ROLL CALL

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

Members Absent: None

Staff Present: Assistant General Manager Ana Ruiz, Assistant General Manager Kevin Woodhouse, Assistant General Counsel Hilary Stevenson, Planning Manager Jane Mark, Senior Planner Meredith Manning, District Clerk Jennifer Woodworth

1. Interpretive Design Development Options for the Mount Umunhum Summit Project (R-15-166)

Senior Planner Meredith Manning presented the staff report describing the three design options for the Interpretive Concept Plan summarizing the elements of each option, including signboards, interpretive signs, embedded objects, etc. Ms. Manning outlined the costs for each of the options including estimated costs and a 20% contract contingency.

Leslie Stone with Leslie Stone Associates, Inc. displayed example photographs of sign boards, interpretive signs, and embedded elements similar to those proposed for the Mount Umunhum Summit Project. Ms. Stone described the costs of various building materials and the durability of those materials.

Director Harris inquired if the standards for the proposed interpretive elements will create a District standard for other District preserves.

Ms. Manning commented on the unique nature of the Mt. Umunhum site and its high visibility to the public, explaining that many of the interpretive elements may be unique to the site. However, the interpretive elements chosen for Mt. Umunhum will most likely, by default, create a design standard for interpretive elements throughout the District's preserves. The Board may decide to set policy regarding interpretive element design standards at a future date.

Director Hanko inquired regarding shrubbery she saw on Mt. Umunhum following the District's acquisitions that were frequented by the hummingbirds that live there.

Director Cyr expressed his opinion that a balance must be struck between providing interpretive elements for and preserving the natural characteristics of the location.

Director Hassett expressed his desire to include the flagpole interpretive element in the final approved concept plan. Director Hassett expressed his opinion that the interpretive elements should also focus on the viewshed of the location and recognition of the sacredness of the site to the Amah Mutsun tribe. He expressed his desire that any embedded objects be related to the military history of the site.

Director Riffle inquired regarding interpretive elements that incorporate technology.

Ms. Manning stated that several technological elements, such as walking tours guided by cell phone, are planned as part of the long term interpretive plan; however, they are not a part of the first phase to be completed prior to the planned October 2016 summit opening.

Director Riffle inquired regarding whether the design elements could be altered depending on the Board's decision regarding the Radar Tower final disposition.

Ms. Manning explained the interpretive elements in proximity of the Radar Tower will be removable since a final decision related to the Radar Tower has not yet been made.

Director Siemens expressed his support for limiting the number of interpretive signs on the site and minimal use of embedded objects at the site.

Public comments opened at 5:56 p.m.

Basim Jaber spoke in favor of including an additional sign near the former Air Force Base housing to further tell the history of the site.

Valentin Lopez, Chairman of the Amah Mutsun Tribal Band spoke favorably of staff's ongoing consultation with him regarding the cultural history of the site and related interpretive elements.

Public comments closed at 5:59 p.m.

Director Kishimoto stated her support for including embedded options at a future time.

Motion: Director Hassett moved and Director Cyr seconded the motion to Approve the Mid-Level Option for Fabrication, Installation, and Installation Oversight of the Interpretive Elements of the Mount Umunhum Summit Project at a cost not-to-exceed \$212,000. Additionally, staff is directed to proceed with the Preferred Option, which will form the basis for a Request for Bids package for fabrication.

Director Siemens stated his support for using the best quality materials for the interpretive elements to increase durability.

Director Harris expressed her opinion that often signs are more temporary based on the content of the signs and the desire to update the information.

VOTE: 7-0-0

President Siemens adjourned the special meeting at 6:08 p.m.

CONVENE TO CLOSED SESSION

President Siemens called the special meeting of the Board of Directors of the Midpeninsula Regional Open Space District to order at 6:08 p.m.

Public comments opened at 6:09 p.m.

Scott McQueen expressed his concerns regarding comments in a recent San Jose Mercury News article related to District staff negotiations with property owners. Mr. McQueen also expressed concerns regarding the planned October 2016 opening of the Mt. Umunhum Summit to the public. Finally, Mr. McQueen shared his concerns related to trespassers on his property sharing a specific example of a mountain biker who trespassed over several properties to reach Hicks Road.

Public comments closed at 6:12 p.m.

The Board convened into closed session at 6:12 p.m.

Conference with Real Property Negotiators (Government Code Section 54956.8)

Property: Portions of the following properties identified as Santa Clara County Assessor Parcel Numbers 562-04-014, 562-08-011, 562-08-012, and 562-22-017

Agency Negotiator: Allen Ishibashi, Senior Real Property Agent

Negotiating Party: Scott McQueen and Michael Rossetta

Under Negotiation: Terms of real property transactions

CLOSED SESSION REPORT

The Board of Directors returned to open session at 6:58 p.m. President Siemens reported the Board met in closed session, and no reportable action was taken.

ADJOURNMENT

President Siemens adjourned the special meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 6:58 p.m.

REGULAR MEETING – BOARD MEETING

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

ROLL CALL

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

Members Absent: None

Staff Present: General Manager Steve Abbors, Assistant General Manager Ana Ruiz, Assistant General Manager Kevin Woodhouse, General Counsel Sheryl Schaffner, Planning Manager Jane Mark, Real Property Manager Mike Williams, Senior Real Property Agent Allen Ishibashi, District Clerk Jennifer Woodworth

ORAL COMMUNICATIONS

There were no comments from the public.

ADOPTION OF AGENDA

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

VOTE: 7-0-0

CONSENT CALENDAR

Director Hanco requested Agenda Item 4 be removed from the Consent Calendar.

1. **Approve the November 17, 2015 Board Meeting Minutes.**
2. **Approve Claims Report**
3. **Communication Site Lease at Pulgas Ridge Open Space Preserve (R-15-169)**

General Manager’s Recommendations:

1. Determine that the recommend action is categorically exempt from the California Environmental Quality Act, as set forth in the staff report.
2. Adopt a Resolution authorizing the approval of a Communication Site Lease at Pulgas Ridge Open Space Preserve with GTE Mobilnet of California Limited Partnership, d/b/a Verizon Wireless.
4. **Annual Dedication of Certain District Lands and Dedication Status Report (R-15-158)**

Agenda Item 4 was heard after the Consent Calendar.

Director Hanko provided comments regarding the lands being dedicated as permanent open space.

Motion: Director Hanko moved and Director Kishimoto seconded the motion to adopt a resolution dedicating interests in certain specified District lands for public open space purposes.

VOTE: 7-0-0

Motion: Director Cyr moved and Director Harris seconded the motion to adopt the Consent Calendar with the exception of Agenda Item 4.

VOTE: 7-0-0

BOARD BUSINESS

5. Resolution Approving an Addendum to the Final Environmental Impact Report for the Mount Umunhum Environmental Restoration and Public Access Project and Related Minor Project Modifications (R-15-165)

Senior Planner Meredith Manning presented the staff report describing the proposed addendum to the 2012 approved Environmental Impact Report (EIR). The modifications to the project triggering the addendum include installation of gates and fencing and obtaining an easement to provide access to Mount Thayer to provide additional security and patrol for the site. Ms. Manning described the locations of the proposed gates and fencing. Ms. Manning explained that the proposed minor modifications do not change the conclusions of the certified EIR.

District consultant Senior Environmental Planner Mike Parker from Ascent Environmental commented on the review of the minor modifications proposed for the addendum to the 2012 Final EIR. Mr. Parker stated that the modifications would not alter any of the conclusions of the certified EIR and do not result in any new or substantially more severe environmental effects than were evaluated in the original documents.

Director Riffle inquired as to the purpose of the new elements to be included in the EIR Addendum.

Ms. Manning explained the importance of including the new project elements to secure Mount Umunhum Road further down the road to best patrol and secure the area.

Public comment opened at 7:20 p.m.

No member of the public spoke regarding this matter.

Public comment closed at 7:20 p.m.

Motion: Director Riffle moved and Director Cyr seconded the motion to adopt a resolution approving an addendum to the certified Final Environmental Impact Report for the Mount Umunhum Environmental Restoration and Public Access Project in Sierra Azul Open Space Preserve and related minor project modifications.

VOTE: 7-0-0

6. Consideration of approving a Resolution of the Board of Directors of the Midpeninsula Regional Open Space District declaring the acquisition of certain real property rights necessary for the Sierra Azul Open Space Preserve and the Mount Umunhum Environmental Restoration and Public Access Project (“Project”), and authorizing the acquisition thereof and the transfer of funds therefore (Portion of Santa Clara County Assessor Parcel Numbers: 562-04-014, 562-08-012 and 562-08-011, owned by Mount Umunhum Limited Partnership). (R-15-167)

7. Consideration of approving a Resolution of the Board of Directors of the Midpeninsula Regional Open Space District declaring the acquisition of certain real property rights necessary for the Sierra Azul Open Space Preserve and the Mount Umunhum Environmental Restoration and Public Access Project (“Project”), and authorizing the acquisition thereof and the transfer of funds therefore (Portion of Santa Clara County Assessor Parcel Number: 562-22-017, owned by Michael and Leonard Rossetta). (R-15-168)

Agenda items 6 and 7 were heard together.

General Manager Steve Abbors provided comments regarding the history of the project, efforts taken by District staff to mitigate property owner and neighbor security concerns, and funding of the restoration of Mt. Umunhum by District constituents, federal government, and the voters most recently through the approval of Measure AA.

Senior Real Property Agent Allen Ishibashi presented the staff report summarizing the history of Mt. Umunhum, including the District’s acquisition of the former Almaden Air Force Station and easement over the full length of Mt. Umunhum Road, District purchase of approximately 70% of Mt. Umunhum Road, and demolition of numerous buildings at the former Air Force Station. Mr. Ishibashi provided the current timeline estimates for completing the Summit Project, including completion of the Mt. Umunhum Trail, public access to the Summit, and completion of restoration, design, and interpretive elements.

Mr. Ishibashi outlined the negotiation timelines with Mr. Rossetta (Rossetta) and Mr. McQueen of Mt. Umunhum Limited Partnership, LLC (McQueen) starting in 2010 and 2012, respectively. Mr. Ishibashi described the proposed terms of the formal offer to Mr. Rossetta, including the fair market appraisal of the Mt. Umunhum Road public access and drainage easements and resolve a clouded title issue related to 19-acres of land of which the ownership is unclear. Mr. Ishibashi addressed several of Mr. Rossetta’s concerns, namely preserving driveway access and additional security to prevent against trespassing.

Mr. Ishibashi described the proposed terms of the District’s formal offer to McQueen, , including the fair market appraisal of public access and drainage easements, a fee strip going through the District property, and a patrol and maintenance easement to Mount Thayer. Mr. Ishibashi described proposed District actions to address Mr. McQueen’s concerns of trespassers accessing his property which included additional gates and fencing placed at locations identified by McQueen.

Mr. Ishibashi described numerous District actions since 2008 to address property owner and adjoining neighbor security concerns, including hiring of an additional District ranger to patrol the area, hiring of a private security firm to protect the former Almaden Air Force Station, and citing of individuals who violated closed area rules. Additional security measures are being proposed, such as building another gate on Mt. Umunhum Road at the intersection of Hicks Road, hiring of additional rangers to patrol the area, a new ranger residence on the recently purchased Meyer property.

Mr. Ishibashi summarized the road design guidelines proposed for Mt. Umunhum Road, including building retaining walls to protect against debris falling into the road, replacing guard rails, and repaving and restriping the road. Finally, Mr. Ishibashi summarized the findings and determinations before the Board for consideration related to the Rosetta property and McQueen property.

Director Riffle inquired regarding District staff plans to work with neighbors.

Mr. Ishibashi stated that staff is interested in learning as much as possible from those who live on the mountain to help address their concerns. District staff wants to develop a positive working relationship with them, mitigate their concerns, and receive feedback. Staff has proposed holding community meetings with the neighbors both before and after the Mt. Umunhum Summit is opened to the public.

Director Hassett inquired regarding title insurance for the boundary dispute for the 19-acre Rosetta land overlap.

Todd Amspoker, District's Special Counsel, explained that due to the complexity of the issue, staff has determined the most fair and cost-efficient solution is to negotiate purchase of the 19-acre property. Mr. Ishibashi also stated the title insurance has been paid out.

Director Kishimoto inquired about use of security cameras and equipment by the District and private property owner.

Mr. Ishibashi explained that the District has offered to pay Mr. McQueen to relocate his equipment 30 feet from the center line of the road. The Board of Directors may determine policy at a later date to allow for security cameras on District lands.

Director Riffle inquired about if individuals currently trespassing on the property will become legitimate visitors once the public is allowed access to the site and Mt. Umunhum Road.

Mr. Ishibashi acknowledged that being true, and further explained once Mt. Umunhum Summit is opened to public access in 2016, members of the public using the road will be allowed to be on the property within the easements only.

Public hearing opened at 8:30 p.m.

Norm Matteoni spoke regarding his clients' inability to respond to the District's September 28, 2015 formal offer, namely Mr. Rossetta's and his family members' ongoing health issues. Due to these issues, Mr. Matteoni stated that Mr. Rossetta had been unable to adequately address and respond to the District's offer, such as request an appraisal and traffic study. Mr. Matteoni stated

Mr. Rossetta's belief that he is entitled to the full designs for the road repaving, drainage plans, and gate and fence installation in order to satisfactorily examine those plans. Mr. Matteoni addressed the disputed 19-acre overlap property stating that the Woods Trail is only blocked for one day a year and not for long periods of time. Mr. Rossetta is amenable to allowing individuals to cross the upper corner of his property to access the Woods Trail. Finally, Mr. Matteoni requested the Board's action be delayed until January or February to address Mr. Rossetta's concerns.

Kirsten Powell, representing Mt. Umunhum Limited Partnership and the McQueen family spoke regarding the District's desire to prevent the McQueen family from securing and protecting their property by requesting removal of their gates, security equipment, and signage. Ms. Powell stated the McQueen family objects to the finding that removal of the security equipment is necessary to securing public access. Ms. Powell stated that the McQueen family would prefer to enter into a license agreement with the District similar to the license agreement with San Jose Water for access to Mt. Thayer. Ms. Powell commented that the timeline for the October 2016 opening the Summit to public access is much sooner than the original 2021 timeline provided by the District, which she said was altered without speaking with the McQueen family. Finally, Ms. Powell stated the proposed Resolution of Necessity is not the course of action with the least private injury.

Gary Vielbaum spoke regarding many trails have been illegally cut through his property on Mt. Thayer. Mr. Vielbaum also expressed his concern that individuals could trespass on his property where he enjoys recreational shooting.

John Hlebo expressed his concerns regarding trespassers that often enter at night. Mr. Hlebo also expressed his concerns related to increased traffic and safety matters, including potential fire or emergency health incidents. Mr. Hlebo thanked District staff for being thorough in notifying neighbors regarding updates to the project.

Charlie Krenz, member of the Silicon Valley Mountain Bikers, spoke in favor of vehicular access to the summit and moving forward with the project as soon as possible. Mr. Krenz spoke in favor of the proposed security fencing to prevent a majority of trespassers accessing areas that are off limits.

Susan Kelso, Mountain View resident and volunteer with the Bay Area Ridge Trail, spoke in favor of the public reaching the Mt Umunhum Summit. Ms. Kelso stated that opening Mt. Umunhum Road will allow for those physically unable to hike to still be able to reach the summit.

Valentin Lopez spoke of the sacredness of Mt. Umunhum to the Ohlone people and having access to Mt. Umunhum will allow the Amah Mutsun Tribal Band to return to their sacred area and pray.

Dave Leeson, resident and landowner on Mt. Umunhum, thanked the Board of Directors and District staff for reaching out to landowners in the area but expressed his concern that trespassing will continue. A trespasser set a fire in the area in 1985, so site security is necessary to the protection of those that live there. Mr. Leeson expressed his belief that alternatives should be considered and Board action should be deferred.

Jennifer Hlebo stated that the District should act as good neighbors and stated that the current action before the Board is moving forward too fast. Ms. Hlebo stated that securing the mountain should be the District's top priority and stated she has seen illegally parked cars blocking the gates and have not been ticketed. Ms. Hlebo stated her concerns that the District has not been maintaining the road in the past, which should be a priority.

Basim Jaber stated 1,600 trespassers have been documented by the McQueen family's security cameras. Mr. Jaber also spoke about the damage that only one trespasser can do.

Public hearing closed at 9:08 p.m.

Director Riffle requested clarification regarding the property owners' ability to secure and protect their property.

The Board recessed at 9:12 pm and reconvened at 9:34 p.m. with all directors present.

Mr. Ishibashi responded to numerous comments received from the property owners and members of the public.

Design documents will be sent to Mr. Rosetta for his review. The documents are being developed as it is common for the design plans to not be at 100% at this stage of the project.

The 60-foot width of the easement is based on the recommendation of the road engineer to allow for drainage. Additionally, the District will have non-exclusive right to the road, so the property owners may use the easement as long as it does not interfere with the use of the road.

The need for acquisition of the 19-acre overlap will allow for the title to be cleared as well protect public access to the Woods Trail.

The relocation of security equipment and gate removal is necessary to maintain the right of way and will not prevent the property owners from securing their property. The gate design has been discussed several times with the property owners, including onsite meetings with the McQueen representatives where the gate and fence locations were determined.

The road easement is necessary to allow for certainty of access that a license will not because the license would require 24 hour notice before entering the property, which will prevent rangers from citing trespassers which would be need to done immediately upon witnessing a trespasser.

The proposed gate at Hicks Road is meant to discourage and reduce the number of trespassers, especially at night.

In order to maintain Mt. Umunhum Road, the District plans to spend \$3-\$4 million to upgrade and improve the road once easement rights are secured. The District will maintain the road in perpetuity without requiring property owners to pay for maintenance.

Mr. Amspoker responded to written objections submitted by Ms. Powell including the adequacy of the notice and the ability of the Board of Directors as a legislative body to make findings stating they had no legal merit. Mr. Amspoker also stated District provided the complete

appraisal and rationale for the appraisal to both property owners as part of the District's offer to the property owners.

Director Riffle provided comments regarding the voters' desire for the District to provide public access to District lands, including the Mt. Umunhum Summit.

Director Hassett provided comments regarding his experience as a property owner when the District purchased Skyline Ranch and the subsequent decrease of trespassers following the District's purchase. He also provided comments on the District acting as a good neighbor, including patrol, fence maintenance, trail alignment away from neighboring properties, etc.

Director Kishimoto provided comments regarding opening Mt. Umunhum to the public.

Motion: Director Hanko moved and Director Hassett seconded the motion to approve Resolution 15-60.

ROLL CALL VOTE: 7-0-0

Motion: Director Hassett moved and Director Riffle seconded the motion to approve Resolution 15-61.

ROLL CALL VOTE: 7-0-0

INFORMATIONAL REPORTS

A. Committee Reports

The Action Plan and Budget Committee met on November 30, 2015 and reviewed the draft revisions to the purchasing policy and Controller's midyear report. Both items will be going to the full Board of Directors on December 16, 2015.

B. Staff Reports

District Clerk Jennifer Woodworth reported that nineteen applications to serve on the Measure AA Bond Oversight Committee have been received, and the application deadline is on December 11, 2015.

C. Director Reports

The Board members submitted their compensatory reports.

Director Riffle reported he recently presented at the Mountain View and Los Altos City Council meetings.

President Siemens reported he recently presented to the Santa Clara Chapter of the California Special District's Association.

ADJOURNMENT

President Siemens adjourned the special meeting of the Board of Directors of the Midpeninsula Regional Open Space District into closed session at 10:14 p.m.

Jennifer Woodworth, MMC
District Clerk

DRAFT