



Midpeninsula Regional
Open Space District

**November 20, 2019
Board Meeting 19-29**

SPECIAL MEETING

BOARD OF DIRECTORS MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

MIDPENINSULA REGIONAL OPEN SPACE DISTRICT FINANCING AUTHORITY

Administrative Office
330 Distel Circle
Los Altos, CA 94022

Wednesday, November 20, 2019

APPROVED MINUTES*

SPECIAL MEETING

Vice-President Holman called the special meeting of the Midpeninsula Regional Open Space District to order at 5:03 p.m.

ROLL CALL

Members Present: Jed Cyr, Larry Hassett, Karen Holman, Zoe Kersteen-Tucker, Yoriko Kishimoto, Pete Siemens, and Curt Riffle

Members Absent: None

Staff Present: General Manager Ana Ruiz, General Counsel Hilary Stevenson, Chief Financial Officer/Director of Administrative Services Stefan Jaskulak, Assistant General Manager Susanna Chan, Assistant General Manager Brian Malone, District Clerk/Assistant to the General Manager Jennifer Woodworth

District Clerk Jennifer Woodworth confirmed with President Siemens and Director Kersteen-Tucker that there is a meeting agenda posted at their locations, that the locations are reasonably accessible to the public, such that any member of the public could participate, and that no members of the public are currently at the teleconference locations that would like to participate in the public comment portion of the meeting.

1. Annual Bond Disclosure Training for the Board of Directors, Members of the Disclosure Working Group, and Contributors (R-19-159)

Chief Financial Officer/Director of Administrative Services Stefan Jaskulak described the formation of the Bond Team, including disclosure counsel, financial advisor, underwriter, and

bond counsel and summarized the District's accomplishments related to bond issuance, including issuance of green bonds, early refunding to lower bond obligations, and development of various governing policies.

Jacquelynne Jennings, partner with the District's disclosure counsel Schiff Hardin, presented the annual training on bond disclosure obligations, responsibilities, financial obligations and associated amendments, and potential liabilities of members of the Board of Directors and members of the Disclosure Working Group.

Public comments opened at 5:52 p.m.

No speakers present.

Public comments closed at 5:52 p.m.

No Board action required.

2. Fiscal Year 2018-19 (FY19) Annual Financial Report (19-150)

Finance Manager Andrew Taylor provided the FY2018-19 Annual Financial Report, including a summary of the District's year-end revenues, a comparison of the Board-adopted budget and District expenditures, and fund balance. Finally, Mr. Jaskulak explained the purpose of transferring a total of \$6 million from the General Fund Unassigned Fund to funds for infrastructure and capital projects and \$3 million from the Committed for Natural Disasters to the Committed for Capital Maintenance & Repair Fund.

Director Riffle requested clarification regarding the percentage of District expenditures.

Finance Manager Andrew Taylor introduced Sheldon Chavan, the District's auditor.

Mr. Chavan reported the difference in the amount presented versus the percentage in the audit is due to the change in reporting requirements for PARS 115 Pension Trusts, which affected how the District accounts for these funds.

Mr. Chavan provided an overview of the District's annual financial audit.

Director Kishimoto spoke in favor of continuing to increase transparency and monitoring pension liability.

Director Holman inquired if the movement of funds from a natural disaster focused fund to a more generalized fund could be used to reduce wildfire risk.

Mr. Chavan spoke in favor of moving funds into a more generalized fund balance to allow more flexibility in how to utilize funds.

Public comments opened at 6:10 p.m.

No speakers present.

Public comments closed at 6:10 p.m.

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

1. Review and accept the Fiscal Year 2018-19 (FY19) Annual Financial Report.
2. Adopt a resolution approving the transfer of a total of \$6 million from the General Fund Unassigned Fund balance as follows:
 - a. \$4.6 million to Committed for Infrastructure Fund; and
 - b. \$1.4 million to the Assigned Fund for Ongoing Capital Projects;And approving the transfer of \$3 million from the Committed for Natural Disasters to the Committed for Capital Maintenance & Repair Fund
3. Approve updates to Board Policy 3.07, Fund Balance Policy, reflecting the changes noted above and to incorporate other important updates.

VOTE: 7-0-0

ADJOURNMENT

Vice-President Holman adjourned the special meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 6:14 p.m.

SPECIAL MEETING OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT FINANCING AUTHORITY

President Siemens called the meeting of the Midpeninsula Regional Open Space District Financing Authority to order at 6:50 p.m.

ROLL CALL

Members Present: Pete Siemens, Yoriko Kishimoto, Jed Cyr, and Larry Hassett

Members Absent: Santa Clara County Supervisor Joe Simitian

Staff Present: Executive Director Ana Ruiz, General Counsel Hilary Stevenson,
Financing Authority Secretary Jennifer Woodworth

ADOPTION OF AGENDA

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

VOTE: 4-0-0 (Supervisor Simitian absent)

District Clerk Jennifer Woodworth announced that Santa Clara County Supervisor Joe Simitian requested the meeting be rescheduled for a future date to allow him to attend.

Motion: Director Cyr moved, and Director Kishimoto seconded the motion to adjourning the meeting of the Financing Authority to December 11, 2019 at 8:00 p.m.

VOTE: 4-0-0 (Supervisor Simitian absent)

President Siemens adjourned the meeting of the Midpeninsula Regional Open Space District Financing Authority at 6:52 p.m.

SPECIAL MEETING

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

ROLL CALL

Members Present: Jed Cyr, Larry Hassett, Karen Holman, Zoe Kersteen-Tucker, , Pete Siemens, and Curt Riffle

Members Absent: Yoriko Kishimoto

Staff Present: General Manager Ana Ruiz, General Counsel Hilary Stevenson, Chief Financial Officer/Director of Administrative Services Stefan Jaskulak, Assistant General Manager Susanna Chan, Assistant General Manager Brian Malone, District Clerk/Assistant to the General Manager Jennifer Woodworth, Acting Engineering & Construction Manager Scott Reeves, Capital Project Manager III Zach Alexander, Visitor Services Manager/Chief Ranger Matt Anderson,

District Clerk Jennifer Woodworth confirmed with President Siemens and Director Kersteen-Tucker that no members of the public are currently at the teleconference locations that would like to participate in the public comment portion of the meeting.

Director Kishimoto arrived at 7:01 p.m.

ORAL COMMUNICATIONS

Nancy Cole of the Friends of Bear Creek Stables thanked District staff for their efforts regarding removal of vegetation for fire clearance.

ADOPTION OF AGENDA

Vice-President Holman polled the members of the public in attendance to determine which items they were there to hear. A majority of the public were interested in the e-bikes agenda item.

Motion: Director Cyr moved, and Director Hassett seconded the motion to adopt the agenda, with the amendment to hear Item 5 before Item 4.

VOTE: 7-0-0

SPECIAL ORDERS OF THE DAY

- Introduction of staff
 - Brian Lee, Data Administrator
 - Rachel Bu, Data Analyst I

CONSENT CALENDAR

Public comment opened at 7:06 p.m.

No speakers present.

Public comment closed at 7:06 p.m.

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

VOTE: 7-0-0

- 1. Approve November 13, 2019 Minutes**
- 2. Award of Contract to Ecological Concerns, Inc., for Plant Maintenance at Eleven Project Restoration and Mitigation Sites, and Public Access Areas (R-19-152)**

General Manager's Recommendations:

1. Authorize the General Manager to enter into contract with Ecological Concerns, Inc., for a base contract price of \$718,294 to maintain plants at eleven project sites for three years.
2. Authorize an allowance of \$60,000 for additional watering events to be expended only if drought conditions occur.
3. Authorize a 10% contingency of \$71,829 to be expended only if necessary, to cover unforeseen conditions, for a not-to-exceed total contract amount of \$850,123.

- 3. Authorization to categorize property located at 330 Distel Circle, Los Altos (Santa Clara County APN: 170-04-051) as surplus property under the Surplus Land Act, to dispose of the property under the Surplus Land Act or, if applicable, to market 330 Distel Circle for sale (R-19-153)**

General Manager's Recommendations:

1. Determine that the recommended actions are categorically exempt from the California Environmental Quality Act, as set out in the report.
2. Adopt a Resolution declaring 330 Distel Circle, Los Altos to be surplus property, authorizing the General Manager to initiate the process of disposing the property pursuant to the Surplus Land Act, and authorizing the General Manager to initiate marketing of the property if the District does not negotiate a sale to a preferred buyer under the Surplus Land Act.

BOARD BUSINESS

- 4. Selection of Basis of Design Repair Options for the Mount Umunhum Radar Tower at Sierra Azul Open Space Preserve (R-19-154)**

Item 4 was heard after Item 5.

Capital Project Manager III Zachary Alexander provided the staff presentation describing the project goals the three bundled repair options for the Mount Umunhum Radar Tower – base repairs, mid-level repair option, and long-term repair option. Mr. Alexander described the

various types of repairs included in each of the repair options, including 20-year projected construction and maintenance costs, and ability of each option to meet project goals. Mr. Alexander described the ongoing defects that would continue to deteriorate without repairs, including contaminated water, wildlife intrusion, etc.

Director Siemens inquired if the ongoing maintenance was related to contractor costs or staff time.

Mr. Alexander explained that this is the ongoing staff time associated with maintenance.

Director Riffle inquired if extreme weather would affect the ongoing maintenance and associated costs.

Mr. Brian Kehoe, District's consultant from WJE, reported that the building should be able to withstand earthquakes based on its design. The larger long-term concern for the radar tower is related to continued deterioration, which could be mitigated by a coating, roof repairs, and ongoing maintenance.

Director Kishimoto inquired if the District's ability to modify the building would be affected by the historic nature of the building.

Mr. Alexander reported staff conferred with Santa Clara County Planning Department staff who confirmed only a building permit will be required.

Director Riffle inquired if the exterior aesthetics of the building would be affected by the repairs.

Mr. Alexander reported the visual appearance will remain largely unchanged.

Director Hassett expressed concern related to the drawbacks of installing a foam roof as listed in the report and spoke in support of foam roof installation.

Public comments opened at 10:31 p.m.

Basim Jaber spoke in favor of the General Manager's recommendation to select the Long-Term Repair option.

Melany Moore spoke in favor of the General Manager's recommendation to select the Long-Term Repair option and thanked the District for their work to save the tower.

Public comments closed at 10:33 p.m.

Director Holman inquired if the CEQA evaluation is outdated.

General Counsel Hilary Stevenson reported she reviewed the environmental impact report and two addendums and stated that the long-term repair option is well covered by the environmental analysis completed.

Director Holman inquired whether replacing a door or infilling a window would be allowed given the listing of the radar tower on the Santa Clara County historic inventory.

Planning Manager Jane Mark reported staff consulted with Santa Clara County Planning Department staff, who stated that since the radar tower is listed on the historic inventory but not landmarked the requirements are different.

Director Hassett spoke in favor of mothballing the radar tower and the high cost of the repairs stating that the funds could be used for other District projects. Director Hassett spoke in favor of minimal repairs, such as only lead abatement and abating other hazardous materials that would affect the public.

President Siemens commented that the long-term option is the lowest cost option for Board consideration.

Director Kersteen-Tucker spoke in favor of how the long-term repair option supports the Board-approved project goals.

Director Cyr spoke in favor of the long-term repair option.

Director Kishimoto thanked staff for evaluating the lifetime costs of the repair options and spoke in support of the long-term repair option.

Director Hassett spoke in favor of “value-engineering” the project to determine if savings could be found for the remediation project.

Motion: Director Siemens moved, and Director Riffle seconded the motion to:

1. Select the Long-Term Repair option for the Mount Umunhum radar tower and seek value-engineering as part of the option.
2. Direct the General Manager to return to the Board of Directors with a recommended award of contract to develop construction documents for the Long-Term Repair option.

VOTE: 6-1-0 (Director Hassett dissenting)

5. Electric Bicycle Policy (R-19-155)

Item 5 was heard before Item 4.

Visitor Services Manager/Chief Ranger Matt Anderson provided the staff presentation describing the three classifications of e-bikes and state and federal regulations related to e-bikes

Assistant General Manager Brian Malone described the District’s trail policy regulating and allowing bikes on trails, which sets guidelines for designating trails as appropriate for bicycle use. Mr. Malone also provided comments on the number of complaints and accidents received related to bicycles since the policy was revised in 2015, which has decreased significantly.

Director Kishimoto spoke regarding the need to account for regional trails and whether trails that connect to District preserves allow e-bikes.

Mr. Anderson summarized the results of a review of peer agency policies on e-bikes, trail and natural resources impacts, and the public comments received so far on this topic, which were mixed in support and opposition to allowing e-bikes on District trails.

Director Holman inquired regarding the fire potentiality related to e-bikes in rural settings.

Saul Leiken, head of the e-bikes division at Specialized Bicycles, provided background information related to testing for e-bike batteries, including puncture testing prior to shipping the batteries. All electrical components are tested, and there is only one reported incident of a fire being started by an e-bike, which was built by an individual rather than a manufacturer.

Director Riffle inquired regarding the potential impact of e-bikes on natural resources and trail users.

Mr. Anderson reported that no definitive research has been completed on these topics and most views on these impacts are based on perception.

Director Riffle inquired regarding the ability to enforce regulations.

Mr. Anderson reported the current trend is for e-bike users to transition from being traditional cyclists, so they would likely be familiar with and follow District regulations.

Director Kishimoto requested additional information regarding a potential iterative approach to introducing e-bikes to the preserves.

Ms. Ruiz stated that one option would be to only allow on paved trails.

Director Hassett suggested one option would be to allow e-bikes on regional trails that connect to peer agencies that allow e-bikes.

Director Kersteen-Tucker inquired whether the internal Leadership Academy made any recommendations.

Volunteer Program Manager Jennifer Williams and member of the Leadership Academy team reported the team supported allowing classifications 1 and 2 on District trails based on research completed.

Public comments opened at 8:00 p.m.

Andrew Nourse spoke in favor of allowing e-bikes in District preserves to allow him to continue to visit and exercise in the preserves.

Jerry Wittenauer an equestrian user of District preserves spoke regarding positive encounters with mountain bikers and stated he has no opposition to allowing e-bikes. Mr. Wittenauer spoke in favor of keeping the percentage of trails available to cyclists the same.

Basim Jaber spoke in favor of e-bikes and the high likelihood that cyclists will be responsible to stay safe.

Mike Bushue Vice Chair of ETRAC spoke in support of e-bikes as long as they are managed, and suggested staff contact San Mateo County Parks to confirm their regulations. Mr. Bushue spoke in favor of managing line of sight to address bike use on trails and address single track trails.

Jay Farrimond spoke in favor of allowing e-bikes to allow him to continue to ride on the District's trails.

Saul Leiken spoke in favor of allowing Class 1 and 2 bicycles anywhere bicycles are allowed. Mr. Liken shared information related to wattage output of 2-wheeled vehicles, which showed the measured output was similar for analog and e-bikes.

Sean McKenna, President of Silicon Valley Mountain Bikers, expressed concern that e-bikes would threaten existing trails due to a negative perception of e-bikes and spoke in favor of having consistency among e-bike regulations among agencies.

Jeff Herrmann spoke in favor of e-bikes to allow him to continue riding based on more limited mobility. Mr. Herrmann said that e-bikes are only about 20 pounds heavier than a conventional bike.

Jeff Holmbeck spoke in favor of option 3 to allow for individuals to continue to ride as they grow older. Mr. Holmbeck stated that the impact of e-bikes on trails is similar to that of conventional bikes.

Frances Reneau expressed concern that allowing e-bikes would greatly increase the number of riders on trails, which would have a negative impact on wildlife and visitors' wilderness experience.

Ron Thompson spoke in favor of e-bikes because they allow him to ride on trails, which he wouldn't be able to do otherwise based on his medical condition. Mr. Thompson spoke in favor of options 1 or 2.

Carol Bridgeman expressed concerns regarding safety and encountering an e-bike while riding her horse on a single-track trail, and a potential higher rate of speed for e-bikes. Ms. Bridgeman spoke in favor of a six-month trial period.

David Parris spoke in favor of allowing e-bikes on District trails to allow individuals with injuries to access the trails. Mr. Parris spoke in favor of options 1 and 2.

Nancy Cole spoke in favor of a trial period for allowing e-bikes and in favor of keeping some preserves closed to e-bikes.

Jeff Golda spoke in favor of allowing e-bikes on District trails because it allows more people to enjoy the environment.

Jiji Melon equestrian trail user shared her observations regarding hikers and bikers on trails and expressed concern regarding less-experienced trail users, which may not understand how to navigate trails when encountering others.

Racheal Goldeen shared her experience with other trail users and cyclist commuters on an e-bikes that traveled above the speed limit.

Gerard Horan spoke in favor of e-bikes as a recuperative therapy for injuries and exercise. Mr. Horan spoke in favor of Class 1 e-bikes.

Foster Kinney spoke in favor of allowing electric assist e-bikes for older individuals, including a three-wheeled version.

Kat Green, District docent, spoke in favor of supporting the primary conservation mission of the District and spoke in favor of protecting wildlife and natural resources.

Travis Bertelson spoke in favor of allowing e-bikes to allow those with limited mobility to access District trails.

Kathy Andberg equestrian trail user shared concerns related to safety of e-bike users going fast on single-track trails and conflicts between equestrian users and cyclists. Ms. Andberg spoke in favor of allowing e-bikes on paved roads.

Laura Robinson equestrian trail user expressed concerns related to safety when speeding cyclists encounter equestrians. Ms. Robinson requested increased enforcement of written speed limits.

Public comments closed at 8:48 p.m.

Director Kishimoto inquired if three-wheeled bikes would be treated the same as two-wheeled bikes.

Mr. Anderson explained these are allowed under the Other Power-Driven Mobility Devices policy.

Director Hassett spoke in favor of working with other land management agencies to ensure regional connecting trails have similar policies related to e-bikes. Director Hassett spoke in favor of only allowing Class 1 e-bikes and to move slowly on potential implementation to allow for additional research from peer agencies. Director Hassett spoke in favor of supporting the District's conservation mission.

Director Cyr spoke in favor of a slow introduction of e-bikes, such as over the course of a year. Director Cyr expressed concerns regarding individuals modifying e-bikes to make them more powerful.

Director Kishimoto shared her positive experience in trying an e-bike stating she felt more in control of the e-bike than when using a traditional mountain bike. Director Kishimoto spoke in favor of allowing Class 1 e-bikes on paved roads and fire roads. Director Kishimoto spoke in favor of developing a phased approach for implementation.

President Siemens spoke in favor of a phased approach and allowing Class 1 e-bikes for a trial period, but not Class 2.

Director Kersteen-Tucker spoke in favor of e-bikes to allow users with a limited mobility to enjoy open space. Director Kersteen-Tucker spoke in favor of education of trail etiquette for multi-use trail users and increased enforcement. Director Kersteen-Tucker spoke in favor of options 2 or 3.

Director Riffle expressed support for option 1 and possibly 2. Director Riffle stated he would like more information related to the impact of e-bikes on resources management and any safety tradeoffs that would occur by allowing e-bikes. Director Riffle requested additional information regarding how staff would handle enforcement if only certain classifications of e-bikes are allowed.

Vice-President Holman expressed concerns related to enforcement and whether the District needs to lead the way on the topic because e-bikes are becoming more popular and the long-term impact is not yet known. Additionally, the District has no way of monitoring an individual's ability or lack thereof. Vice-President Holman spoke in favor of studying how other land management agencies are addressing e-bikes and in support of protecting wildlife and providing access.

Director Kersteen-Tucker stated that many e-bike riders are also riders of traditional mountain bikes, which also require experience. Director Kersteen-Tucker spoke in favor of taking a leadership role in managing e-bikes, which are already being used by many cyclists. Director Kersteen-Tucker spoke in favor of gathering data during phased approach to introducing e-bikes.

Director Riffle expressed caution that once e-bikes are allowed, it would be difficult to then prohibit them on District preserves.

Mr. Malone stated additional signage would likely be needed if the Board sought to prohibit e-bikes to increase visitor education.

Director Kersteen-Tucker suggested modifying the trail use policy to have guidelines specific to e-bikes on District trails.

Motion: Director Siemens moved, and Director Kishimoto seconded the motion to direct staff to return with an evaluation and process to implement a phased one-year pilot program to allow class 1 e-bikes on select unpaved trails, including evaluating the ability to enforce District regulations and separate the impacts of analog and e-bikes on District natural resources.

Friendly Amendment: Director Kishimoto suggested also evaluating allowing class 1 and 2 electric bicycles on designated paved trails and roadways using a phased approach.

Director Siemens accepted the friendly amendment.

VOTE: 7-0-0

The Board recessed at 9:51 p.m. and reconvened at 10:00 p.m. with all Directors present.

INFORMATIONAL REPORTS

A. Committee Reports

Director Kishimoto reported the Planning and Natural Resources committee met to discuss the potential topics for study by the Science Advisory Panel topics.

B. Staff Reports

No staff reports.

C. Director Reports

The Board members submitted their compensatory reports.

Director Hassett reported on the recent meeting of the La Honda Public Access Working Group and a workshop for agricultural peer agencies.

Directors Cyr and Kishimoto thanked staff for arranging the e-bike demonstration they attended.

ADJOURNMENT

Vice-President Holman adjourned the regular meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 11:00 p.m.

Jennifer Woodworth, MMC
District Clerk