



Midpeninsula Regional
Open Space District

January 13, 2021
Board Meeting 21-01

SPECIAL AND REGULAR MEETING

BOARD OF DIRECTORS MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

Wednesday, January 13, 2021

The Board of Directors conducted this meeting in accordance with California Governor Newsom's Executive Order N-29-20. All Board members and staff participated via teleconference.

APPROVED MINUTES*

SPECIAL MEETING – CLOSED SESSION

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

ROLL CALL

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

Members Absent: None

Staff Present: General Manager Ana Ruiz, General Counsel Hilary Stevenson, Assistant General Manager Brian Malone, Assistant General Manager Susanna Chan, Real Property Manager Mike Williams, Real Senior Real Property Agent Allen Ishibashi, Real Property Specialist I Jasmine Leong, Planner III Elish Ryan

District Clerk Jennifer Woodworth announced this meeting is being held in accordance with Governor Newsom's Executive Order allowing Board members to participate remotely. The District has done its best to conduct a meeting where everyone has an opportunity to listen to the meeting and to provide comment. 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. Ms. Woodworth described the process and protocols for the meeting.

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Government Code Section 54956.8)

Property: Santa Clara County APN: 562-20-001

Agency Negotiator: Allen Ishibashi, Senior Real Property Agent

Negotiating Party: Scott Mangum, ESQ. and Mary Billingsley

*Approved by the Board of Directors on February 10, 2021

Under Negotiation: Purchase Terms

2. Conference with Legal Counsel- Existing Litigation Gov't Code 54956.9(d)1)

Zellerbach v. MROSD et al.

Santa Clara County Superior Court Case No. 20-CV-365990

Public comment opened at 5:01 p.m.

District Clerk Jennifer Woodworth reported no public comments were submitted for this item.

Public comment closed at 5:01 p.m.

The Board convened into closed session at 5:01 p.m.

ADJOURNMENT

President Holman adjourned the special meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 6:52 p.m.

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

President Holman called the regular 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, Yoriko Kishimoto, Curt Riffle, and Pete Siemens

Members Absent: None

Staff Present: General Manager Ana Ruiz, General Counsel Hilary Stevenson, Assistant General Manager Brian Malone, Assistant General Manager Susanna Chan, Chief Financial Officer Stefan Jaskulak, District Clerk/Assistant to the General Manager Jennifer Woodworth, Public Affairs Manager Kori Skinner, Natural Resources Manager Kirk Lenington, Senior Resources Management Specialist Julie Andersen, Planning Manager Jane Mark, Senior Planner Tina Hugg, Engineering & Construction Manager Jay Lin, Senior Capital Project Manager Scott Reeves, Capital Projects Field Manager Bryan Apple

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REPORT OUT OF CLOSED SESSION

General Counsel Hilary Stevenson reported the Board met in closed session, and no reportable action was taken.

ADOPTION OF AGENDA

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

ROLL CALL VOTE: 7-0-0

ORAL COMMUNICATIONS

District Clerk Jennifer Woodworth read the submitted comments into the record.

T. Lawson expressed concern regarding the restrictions against allowing senior citizens to use e-bikes on District trails. Mr. Lawson stated restricting trail access is discriminatory and requested the Board revise its policy to allow bikes in preserves.

SPECIAL ORDER OF THE DAY

- Swearing in of Board members

District Clerk Jennifer Woodworth swore in Directors Jed Cyr, Curt Riffle, and Zoe Kersteen-Tucker for their terms ending in 2024.

- Introduction of Staff
 - Paul Kvam, Capital Project Manager III

CONSENT CALENDAR

Public comment opened at 7:11 p.m.

District Clerk Jennifer Woodworth read the public comments submitted for the consent calendar.

Nathaniel Dixon suggested several changes for the Alpine Road Trail Improvements Project, including cancelling plans to replace the current bypass trail with a wide shallow trail, minimizing the amount of trail widening and resurfacing unless necessary, and avoiding the use of surface materials that will cause hazardous conditions for bikes.

Sarah Tollman expressed concern regarding the proposed modification to the Alpine Road Trail stating that the changes would remove characteristics enjoyed by mountain bikers. Additionally, “rocking the surface of problem areas” would create a hazardous condition for bicycles.

Boris Foelsch expressed concern regarding the proposal to widen Alpine Road Trail stating its current condition is enjoyable.

Public comment closed at 7:16 p.m.

Director Kishimoto commented the District does not intend to make the trail accessible to vehicles. Additionally, the “informal bypass” trail is relatively new and was meant to be temporary.

Assistant General Manager Brian Malone reported the trail improvements would likely narrow the trail, and loose rocks are not used for the surface and are compacted.

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

ROLL CALL VOTE: 7-0-0

- 1. Approve December 16, 2020 Minutes**
- 2. Approve Claims Report**
- 3. Award of Contract with Tyler Technologies Inc., for an Enterprise Resource Planning System Migration and Five-Year Software Service Agreement (R-20-02)**

General Manager’s Recommendation:

1. Authorize the General Manager to award a contract with Tyler Technologies Inc., for a one-time cost of \$198,124 to migrate the Enterprise Resource Planning (ERP) System from New World Systems (planned to be discontinued) to Munis with a 10% contingency of \$19,800 to address unanticipated technical issues, for a total amount of \$217,924.
2. Authorize the General Manager to award a five-year software maintenance agreement with Tyler Technologies Inc., for a total amount of \$299,165 (\$59,833 per year) that will replace the current maintenance agreement for New World Systems (resulting in a net savings of \$9,477 over the five years for annual maintenance fees).
3. Authorize an allowance of \$44,000 to be used only as needed during the next five years for additional online storage and user growth needs, bringing the total contract to an amount not-to-exceed \$561,089 for the Munis software platform.

- 4. California Environmental Quality Act (CEQA) Certification for the Alpine Road Trail Improvements Project at Coal Creek Open Space Preserve (R-21-04)**

General Manager’s Recommendation: Adopt a Resolution certifying the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Alpine Road Trail Improvements Project in accordance with CEQA.

BOARD BUSINESS

- 5. Election of the Calendar Year 2021 Officers for the Midpeninsula Regional Open Space District Board of Directors (R-21-01)**

Ms. Woodworth described the procedure for electing Board officers.

Public comment opened at 7:21 p.m.

Ms. Woodworth reported no public comments were submitted for this item.

Public comment closed at 7:21 p.m.

Director Siemens nominated Director Riffle for Board President. No further nominations were presented.

Motion: Director Cyr moved, and Director Siemens seconded the motion to close the nominations for Board President.

ROLL CALL VOTE: 7-0-0

By a vote of 7 to 0, the Board elected Director Riffle as Board President for Calendar Year 2021.

Director Holman offered comments highlighting the District's accomplishments in 2020.

The members of the Board thanked Director Holman for her service as Board President.

Ms. Woodworth called for nominations for Board Vice-President.

Director Riffle nominated Director Kersteen-Tucker for Board Vice President. No further nominations were presented.

Motion: Director Cyr moved, and Director Siemens seconded the motion to close the nominations for Board Vice-President.

ROLL CALL VOTE: 7-0-0

By a vote of 7 to 0, the Board elected Director Kersteen-Tucker as Board Vice President for Calendar Year 2021.

Ms. Woodworth called for nominations for Board Treasurer.

Director Kersteen-Tucker nominated Director Kishimoto for Board Treasurer. No further nominations were presented.

Motion: Director Cyr moved, and Director Siemens seconded the motion to close the nominations for Board Treasurer.

ROLL CALL VOTE: 7-0-0

By a vote of 7 to 0, the Board elected Director Kishimoto as Board Treasurer for the 2021 calendar year.

Ms. Woodworth called for nominations for Board Secretary.

Director Kersteen-Tucker nominated Director Hassett for Board Secretary. No further nominations were presented.

Motion: Director Siemens moved, and Director Cyr seconded the motion to close the nominations for Board Secretary.

ROLL CALL VOTE: 7-0-0

By a vote of 7 to 0, the Board elected Director Hassett as Board Secretary for Calendar Year 2021.

6. Beatty Parking Area and Trail Connections Project Options (R-21-03)

General Manager Ana Ruiz provided comments regarding public access at the former Beatty property as part of a commitment made to Santa Clara County (County) when the District purchased the property. As part of the public process during early planning of a potential new trail and parking area, members of the public brought to staff's attention the impact of vehicular traffic on Alma Bridge Road leading to high newt mortality. As a result, the District is contributing staff time and funding to study the impact on newts. The Planning and Natural Resources (PNR) Committee recommended the Board defer the project until the completion of the newt study. As an separate option, the Board may direct staff to proceed with the project through 65% of the design phase for a seasonal permit lot and then wait on completing the design for the results of the newt study, which results may be incorporated into the final design.

Senior Planner Tina Hugg described project progress to date, including a commitment to the County to develop a trail connection to the Priest Rock Trail as part of a regional trail connection. Ms. Hugg described the project location and limited parking options currently in the area. Ms. Hugg reviewed the existing site conditions and various parking options: (1) vehicular seasonal parking lot; and (2) vehicular and equestrian seasonal permit parking lot.

Senior Resources Management Specialist Julie Andersen provided information regarding two species of newts found in the area. Ms. Andersen described the multi-agency newt study, which seeks to better understand the size of the breeding adult newt population, proportion of adult newts crossing Alma Bridge Road to breed, the percentage killed by vehicular strikes during a single breeding season, and the carrying capacity of Lexington Reservoir. Ms. Andersen provided an update on the newt study and observations to date.

Director Hassett inquired regarding the District's commitment to the County associated with the funding agreement and the timeline associated with delaying the project.

Ms. Hugg reported staff began consulting with County staff who may be open to extending the timeframe for trail implementation included in the conservation easement.

Director Siemens inquired regarding potential options for wildlife crossings for newts.

Ms. Andersen described potential wildlife crossings, such as a culvert, directional fencing, etc., but reported additional study is needed.

Director Kersteen-Tucker inquired regarding the amount of staff time and funding that would be needed to bring the designs to 65%.

Ms. Hugg reported only limited staff time would be needed because it is a much smaller project scope.

Senior Capital Project Manager Scott Reeves provided additional information regarding the project scope for a seasonal permit parking lot with limited amenities.

President Riffle inquired regarding anticipated visitor use during the time the seasonal lot would be open.

Ms. Ruiz reported the seasonal lot would be open during the District's high use period, such as during the summer months, which is when a majority of the District's usage occurs.

Public comment opened at 8:45 p.m.

District Clerk Jennifer Woodworth read the public comments submitted for this item.

Shani Kleinhaus expressed concern regarding increases to newt mortality on Alma Bridge Road associated with the proposed Beatty parking lot.

Karan Gathani expressed concern regarding increased newt mortality on Alma Bridge Road due to vehicular traffic.

Tiffany Yap with the Center for Biological Diversity urged the Board to defer the project until connectivity is improved for newts and other wildlife on Alma Bridge Road.

Merav Vonshak expressed support for the Planning and Natural Resources Committee recommendation to postpone development of the Beatty parking lot and trail.

Public comment closed at 8:51 p.m.

Director Kishimoto reported on the discussions held by the PNR Committee and spoke in favor of deferring the project until the newt study is complete.

Director Kersteen-Tucker spoke in favor of seeking options to protect newts crossing Alma Bridge Road and in favor of beginning design work to help the project move forward while still protecting wildlife.

Director Hassett spoke in favor of deferring the project until completion of the newt study.

Director Siemens spoke in favor of partially designing a seasonal permit lot and trail to keep the trail portion of the project moving forward.

Ms. Hugg commented the trail design will be handled separately from the seasonal permit lot by the Land and Facilities Department.

Director Kersteen-Tucker inquired if the Beatty parking area project would potentially not move forward based on the results of the newt study.

Ms. Andersen stated the District and Board will have an opportunity to determine whether to proceed further with the project based on current mortality and successful crossing rates; however, the necessary data is not yet available.

Motion: Director Kishimoto moved, and Director Holman seconded the motion to defer the Beatty Parking Area and Trail Connections Project until completion of a new study to incorporate its findings.

ROLL CALL VOTE: 5-2-0 (Directors Cyr and Siemens dissenting)

7. Revisions to Board Compensation Policy 6.06 (R-21-05)

General Counsel Hilary Stevenson provided the staff report describing the legal requirement for the Board to make annual findings related to the number of compensable meetings per month. Ms. Stevenson reviewed the proposed additions to the list of compensable meetings.

Director Holman requested clarification regarding meetings of outside agencies or called by other elected officials.

Ms. Stevenson provided information regarding how the meetings would be included in the policy categories.

Public comment opened at 9:40 p.m.

Ms. Woodworth announced no public comments were submitted for this item.

Public comment closed at 9:40 p.m.

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

1. Adopt a Resolution making annual findings that up to six compensable Board meetings per month are necessary for the effective operation of the Midpeninsula Regional Open Space District.
2. Consider the recommendation of the Legislative, Funding, and Public Affairs Committee to revise the list of compensable meetings in *Board Policy 6.06--Meeting Compensation, Reimbursement of Authorized Necessary Expenses for Performance of Official Duties, and Adoption of Ethics Training Requirements Pursuant to Government Code Section 53232 et seq. (AB1234)*, as amended.

ROLL CALL VOTE: 7-0-0

Director Kishimoto commented her support for the changes to Board Policy 6.06 is due to the limit for only up to six meetings to be compensated per month.

8. Approval of Salary Adjustments and Amended Employment Agreement for Board Appointee General Manager (R-21-06)

9. Approval of Salary Adjustments and Amended Employment Agreement for Board Appointee General Counsel (R-21-07)

10. Approval of Salary Adjustments and Amended Employment Agreement for Board Appointee Controller (R-21-08)

Human Resources Manager Candice Basnight provided the staff presentation summarizing the Board appointee evaluation process, compensation study, and revisions to the employment agreements.

Public comment opened at 9:48 p.m.

District Clerk Jennifer Woodworth read the public comments submitted for this item.

Public comment closed at 9:48 p.m.

Motion: Director Kersteen-Tucker moved, and Director Siemens seconded the motion to approve the following Board Appointee Evaluation Committee Recommendations:

Board Appointee Evaluation Committee's Recommendations:

As a result of the Board's evaluation of the performance of the District's Board Appointees for Fiscal Year 2019-20, the Board Appointee Evaluation Committee recommends the following compensation adjustments for the General Manager for Fiscal Year 2020-21: Adjust the General Manager's base salary upward to \$259,875, plus a one-time merit pay bonus of \$18,191.

The Board Appointee Evaluation Committee recommends the adoption of a resolution approving the salary adjustments set out in Committee's recommendations and authorizing the Board President to execute an Amended Board Appointee Employment Agreement.

Board Appointee Evaluation Committee's Recommendations:

As a result of the Board's evaluation of the performance of the District's Board Appointees for Fiscal Year 2019-20, the Board Appointee Evaluation Committee recommends the following compensation adjustments for the General Counsel for Fiscal Year 2020-21: Adjust the General Counsel's base salary upward to \$236,775, plus a one-time merit pay bonus of \$11,839.

The Board Appointee Evaluation Committee recommends the adoption of a resolution approving the salary adjustments set out in Committee's recommendations and authorizing the Board President to execute an Amended Board Appointee Employment Agreement.

Board Appointee Evaluation Committee's Recommendations:

As a result of the Board's evaluation of the performance of the District's Board Appointees for Fiscal Year 2019-20, the Board Appointee Evaluation Committee recommends the following compensation adjustments for the Controller for Fiscal Year 2020-21: Adjust the Controller's base salary upward to \$48,283, plus a one-time merit pay bonus of \$1,448.

The Board Appointee Evaluation Committee recommends the adoption of a resolution approving the salary adjustments set out in Committee's recommendations and authorizing the Board President to execute an Amended Board Appointee Employment Agreement.

ROLL CALL VOTE: 7-0-0

INFORMATIONAL REPORTS

A. Committee Reports

Director Kersteen-Tucker reported the Board Self-Evaluation ad hoc committee met on December 29, 2020 to discuss the evaluation process with facilitator Nadine Levine.

B. Staff Reports

Public Affairs Manager Kori Skinner provided an update on the District's 50th anniversary plans, including the release of the request for proposals, and staff will be soliciting Board member interest for the project elements as next steps.

Ms. Ruiz reported the Measure AA Bond Oversight Committee is meeting tomorrow to begin their annual review process.

Assistant General Manager Susanna Chan announced the California Coastal Commission approved the District's application for zoning amendments to support several of the District's coastal acquisitions.

C. Director Reports

Director Holman announced Director Kishimoto was selected to be the regular member on LAFCO representing the independent special districts in Santa Clara County.

Director Kishimoto suggested Dr. Richard Lanman present to the Board on historical ecology, including restoring tulle elk to the San Mateo Coast.

ADJOURNMENT

President Riffle adjourned the regular meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 10:08 p.m.

Jennifer Woodworth, MMC
District Clerk