



Midpeninsula Regional
Open Space District

R-23-13
Meeting 23-03
January 25, 2023

AGENDA ITEM 9

AGENDA ITEM

First Reading of the Board Compensation Ordinance

GENERAL MANAGER'S RECOMMENDATION

1. Waive reading and introduce an ordinance increasing Board compensation from \$105.00 to \$115.50 per meeting pursuant to Public Resources Code section 5536.
2. Hold a public hearing on the proposed ordinance.
3. Direct the General Manager and General Counsel to prepare the ordinance for second reading/adoption at the February 8, 2023 Board meeting.

SUMMARY

State law allows the Board of Directors (Board) to increase the per meeting compensation for Board members by up to 5% annually, by ordinance. The last increase was adopted by the Board on December 9, 2020 and went into effect in February 2021. Two years have elapsed since the last increase. This item consists of the first reading of an ordinance which would increase the per meeting compensation by 10%, from \$105.00 to \$115.50. The proposed increase is expected to fall within the Board-approved Fiscal Year 2023 (FY23) budget.

DISCUSSION

Prior to January 1, 2019, California Public Resources Code section 5536 set the compensation for Board members at \$100 per meeting with a maximum of \$500 or five meetings per month. This level of Board compensation had not changed since 1984. Based on US inflation calculators, the cumulative rate of inflation during this timeframe has been approximately 150%.

Although compensation has not changed in 34 years, the scope of Board member responsibilities and the complexity of policy oversight substantially increased during that period of time:

- Since 1984, the District's budget has grown from \$13.9 million to \$81 million.
- The District secured a substantial second funding source for capital projects in the form of a \$300 million general obligation bond passed by voters in 2014.
- Acres of land preserved by the District have grown from 18,300 acres to over 65,000 acres.
- The District now operates in three counties, including the San Mateo County coast, while it previously had operated in only two counties and was limited in San Mateo County to the southern bayside area.
- The District's constituent population grew from 570,000 to 770,000.

In June 2018, the District supported AB 2329 (Obernolte), the purpose of which was to provide Board members with enhanced latitude in increasing the number of compensable meetings and the per meeting compensation amount. Assemblymember Obernolte expressed the intent of the legislation as follows:

"This bill puts special districts on the same playing field. Many special districts are operated with small boards of directors that work diligently to make their special district as useful to the community as possible. This important work takes board members' time. Allowing special districts to be allowed the same amount of meetings a month will help level the playing field for those districts that currently have lower limits. Additionally, allowing districts the authority to slightly adjust their compensation annually will help districts assess for themselves what is fair and what their district can handle, rather than raising the compensation statewide."

The law, which went into effect on January 1, 2019, enables Board members to increase the per meeting compensation by up to 5% annually. The ordinance must be adopted pursuant to the procedure used by water districts (Water Code section 20200 *et seq*) that includes multiple opportunities for the public to provide input through a public hearing and a petition process. The procedure for adopting a compensation increase is:

- Publish a notice of the public hearing in the local newspaper once per week for two consecutive weeks.
- Hold a public hearing (first reading), and adopt the ordinance at a subsequent meeting (second reading)
- Within 60 days after adoption, the public may petition for reconsideration of the ordinance. In this case, the Board must reconsider the ordinance before enacting it.

The Board adopted its first increase from \$100 to \$105 per meeting in December 2020, which went into effect in February 2021. The Board has not adopted an increase since then. Because state law allows the Board to increase compensation by up to 5% per calendar year, the Board may now consider enacting a compensation increase of up to 10% (from \$105 up to \$115.50), because two calendar years have elapsed since the last increase went into effect.

Board member compensation for local agencies varies, as not all local agencies are subject to the same statutory scheme for compensation. For example, Valley Water and BART have their own statutes (in the Water Code and the Public Utilities Code, respectively) regarding Board member compensation. Valley Water Board members received \$348.45 per meeting in 2022. East Bay Regional Park District recently increased its Board compensation from \$115.50 to \$121.26 per compensable meeting.

FISCAL IMPACT

The FY23 budget provides up to \$47,000 for Board meeting compensation. Board Policy 6.06, Meeting Compensation, allows Board members to be compensated for up to six compensable meetings per month. If the per-meeting compensation is increased up to 10%, this amount should be sufficient to compensate Board members for the remainder of the fiscal year and is

contingent upon the number of compensable meetings held per month. If it is later determined that additional funds are required, a budget adjustment may be requested.

BOARD COMMITTEE REVIEW

There was no Committee review of this item.

PUBLIC NOTICE

Public notice of the Ordinance was published in the newspaper once a week for two weeks leading up to this first reading in accordance with Public Resources Code section 5536 and Water Code section 20203.

Public notice was also provided pursuant to the Brown Act.

CEQA COMPLIANCE

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

NEXT STEPS

If approved by the Board, the Ordinance will undergo a second reading at the February 8, 2023 meeting. If adopted upon second reading, the Ordinance will go into effect 60 days after adoption.

ATTACHMENTS:

1. Ordinance

Responsible Department Head:
Ana Ruiz, General Manager

Prepared by:
Hilary Stevenson, General Counsel

ORDINANCE NO. 23-XX

**ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT INCREASING
THE COMPENSATION AMOUNT FOR BOARD MEMBER MEETING
ATTENDANCE TO \$115.50 PER MEETING**

WHEREAS, the Midpeninsula Regional Open Space District (“District”) is a special district duly organized and existing under and pursuant to California Public Resources Code section 5500 et seq.; and

WHEREAS, California Public Resources Code section 5536 sets forth the authority for establishing compensation for members of the District’s Board of Directors (Board); and

WHEREAS, the current Board member compensation is one hundred and five dollars (\$105) per day for attendance at a meeting of the Board, up to a maximum of six (6) days per calendar month; and

WHEREAS, the per meeting compensation of one hundred and five dollars (\$105) per day was last increased in 2021 and may be increased up to five percent for each calendar year since the last increase; and

WHEREAS, the Board wishes to increase the compensation by 10% from \$105 per meeting to \$115.50 per meeting, for each of the two respective calendar years that have elapsed since the 2021 increase; and

WHEREAS, in accordance with California Water Code section 20203 and California Government Code section 6066, a public hearing was held on January 25, 2023, at 7:00 pm, and a notice of said hearing was duly published in the newspaper once a week for two weeks prior to the public hearing.

NOW THEREFORE, The Board of Directors of the Midpeninsula Regional Open Space District does ordain as follows:

SECTION 1.

- A. The Midpeninsula Regional Open Space District desires to compensate members of the Board of Directors for attendance at its meetings, in accordance with California law and Board policy.
- B. The amount of compensation to be received by the Board of Directors for each day’s attendance at a meeting of the Board shall be increased ten percent (10%) from one hundred and five dollars (\$105) to one hundred and fifteen dollars and fifty cents (\$115.50) per day.

SECTION 2. Upon adoption of this Ordinance, 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. (AB 1234)*) shall be amended to reflect this increase.

SECTION 3. This Ordinance shall be published once within thirty (30) days after adoption in a newspaper of general circulation printed, published, and circulated in the Midpeninsula Regional Open Space District.

SECTION 4. Pursuant to Water Code section 20204, this Ordinance shall become effective 60 days from the date of its adoption.

* * * * *

Adopted by the Midpeninsula Regional Open Space District Board of Directors on February 8, 2023, at a regular meeting thereof, by the following vote:

AYES:

NOES:

ABSTAIN

ABSENT:

ATTEST:

APPROVED:

Craig Gleason, Secretary
Board of Directors

Yoriko Kishimoto, President
Board of Directors

APPROVED AS TO FORM:

Hilary Stevenson, General Counsel

I, the Acting District Clerk of the Midpeninsula Regional Open Space District, hereby certify that the above is a true and correct copy of an ordinance 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.

Maria Soria, Acting District Clerk