



SPECIAL AND REGULAR MEETING

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

Wednesday, March 22, 2023

*The Board of Directors conducted this meeting in accordance with
California Government Code section 54953.*

DRAFT MINUTES

**SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA
REGIONAL OPEN SPACE DISTRICT – CLOSED SESSION**

President Kishimoto called the special meeting of the Midpeninsula Regional Open Space District to order at 5:31 p.m.

ROLL CALL

Members Present: Jed Cyr, Craig Gleason, Karen Holman, Zoe Kersteen-Tucker, Yoriko Kishimoto, Margaret McNiven, and Curt Riffle

Members Absent: None

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

President Kishimoto announced this meeting is being held in accordance with Government Code section 54953. 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.

**1. CONFERENCE WITH LABOR NEGOTIATORS (Government Code
Section 54957.6)**

Agency designated representatives: Ana Ruiz, General Manager, Brian Malone, Assistant General Manager, Jack Hughes, Liebert Cassidy Whitmore
Employee organization: Midpeninsula Rangers Peace Officers Association

Public comment opened at 5:31 p.m.

District Clerk/Assistant to the General Manager Maria Soria reported there were no public speakers for closed session.

Public comment closed at 5:31 p.m.

The Board convened into closed session.

ADJOURNMENT

President Kishimoto adjourned the special meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 6:54 p.m.

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

President Kishimoto called the regular meeting of the Midpeninsula Regional Open Space District to order at 7:01 p.m.

ROLL CALL

Members Present: Jed Cyr, Craig Gleason, Zoe Kersteen-Tucker, Yoriko Kishimoto, Margaret McNiven, and Curt Riffle

Members Absent: Karen Holman

Staff Present: General Manager Ana Ruiz, General Counsel Hilary Stevenson, Assistant General Manager Susanna Chan, Assistant General Manager Brian Malone, Chief Financial Officer/Director of Administrative Services Stefan Jaskulak, District Clerk/Assistant to the General Manager Maria Soria, Senior Capital Project Manager Scott Reeves, Senior Planner Gretchen Laustsen, Planning Manager Jane Mark, Public Affairs Specialist II Ryan McCauley, Public Affairs Manager Kori Skinner

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Director Holman joined the meeting at 7:11 p.m.

REPORT OUT OF CLOSED SESSION

President Kishimoto reported there were no reportable action was taken.

ORAL COMMUNICATIONS

Ms. Soria reported there were no public speakers for this item.

ADOPTION OF AGENDA

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

ROLL CALL VOTE: 6-0-0 (Absent Holman)

CONSENT CALENDAR

Public comment opened at 7:03 p.m.

Ms. Soria reported there were no public speakers for this item.

Public comment closed at 7:03 p.m.

Motion: Director Riffle moved, and Director Kersteen-Tucker seconded the motion to approve the Consent Calendar.

ROLL CALL VOTE: 6-0-0 (Absent Holman)

1. **Approve the January 11, 2023 and January 25, 2023 Board meeting minutes.**
2. **Approve Claims Report**
3. **Minor Contract Amendment for Caltrans Permit Design Services with BKF Engineers for the Bear Creek Redwoods North-East Trailhead (an Element of Phase II Trail Improvements) (R-23-30)**

General Manager’s Recommendation: Authorize a contract amendment in the amount of \$34,000 with BKF Engineers of Redwood City, California to provide Permit Design Services required for the Caltrans encroachment permit to establish the Bear Creek Redwoods North-East Trailhead, bringing the existing contract to a not-to-exceed total amount of \$154,956.

4. **Award of Contract for Construction of the Bear Creek Redwoods Phase II Trails Project (R-23-31)**

General Manager’s Recommendation:

1. Authorize an award of contract to Gordon N. Ball, Inc., of Alamo, California for a not-to-exceed base contract amount of \$1,966,750.
2. Authorize the award of a Bid Alternate in the amount of \$238,000 for the installation of a water supply line to provide reliable water for Bear Creek Stables, bringing the base contract amount to \$2,204,750.
3. Authorize a 15% contingency of the base contract plus bid alternate in the amount of \$330,713 to be reserved for unanticipated issues.
4. Authorize an allowance in the amount of \$115,000 specifically for dewatering activities should these be required, bringing the total not-to-exceed contract amount to \$2,650,463.
5. Allocate \$1,486,000 of the available interest income on Measure AA Bond Proceeds to close the budget funding gap and complete the Phase II Trails to open the northern portion of Bear Creek Redwoods Open Space Preserve.

5. Amend Legal Services Agreement with Jarvis Fay, LLP (R-23-32)

General Manager's Recommendation: Authorize an amendment in the amount of \$60,000 to an existing agreement with the firm of Jarvis Fay, LLP to provide specialized local government legal advice and litigation services, for a not-to-exceed total contract amount of \$95,000.

BOARD BUSINESS**6. Approval of Refinements to the Bear Creek Stables Capital Maintenance and Repair Project to Address Use Permit Conditions (R-23-33)**

Senior Capital Project Manager Scott Reeves provided the staff presentation of the Bear Creek Stables use permit process that will facilitate Santa Clara County (County) approvals for the Capital Maintenance and Repair Project. He reviewed the project history and planning process timeline, as well as the capital maintenance and repair project that was approved by the Board in 2019, which was narrowed from 2017 to represent the highest priority repairs and improvements. Mr. Reeves described the repairs and improvements to the main barn, breezeway barn, and hay barn. Mr. Reeves also shared key points of the use permit status that have occurred since it was submitted to the County on October 4, 2021.

Director Kersteen-Tucker inquired and received information on what caused the use permits to be deemed as incomplete submittals.

Director Cyr requested staff to elaborate on the staff turnover issues at the County.

Director Gleason inquired if the whole main barn would have a new concrete floor and whether all the dividers would be taken out.

Mr. Reeves confirmed the barn will receive a new concrete floor and there are internal posts that would need to remain, but the dividers would be removed.

Mr. Reeves continued to review the preliminary permit conditions received in 2022 from the Fire Marshall and the Baseline Fire Suppression requirements from the code to meet the current plan, which would require the driveway to be widened to 22 feet plus 2-foot shoulders for a total of 26 feet, a 33,000-gallon water tank, a 4-inch water service line, a standard fire hydrant, and fire sprinklers for the hay barn, the breezeway barn, the caretaker residence, and the restroom. The main barn is currently not required to have sprinklers, as long as there is not a proposed use change. It is estimated that to widen the driveway to 26 feet will require the removal of at least 30-40 riparian trees and installation of 350 feet of six- to eight-foot-tall retaining walls. The waterline would be brought in from Bear Creek Road about 2,000 feet away, with a new water tank positioned at the highest point on the site. The waterline will also service the caretaker residence and public restroom. Mr. Reeves described the fire sprinkler improvements and mentioned that the proximity of the breezeway barn to the hay barn is doubling the water storage requirement at 33,000 gallons; these structures are less than 50 feet from each other, triggering an elevated water storage standard with the Fire Marshall. Mr. Reeves stated that to meet the intent of the fire code, the project can either provide the baseline fire suppression system or propose and negotiate alternate means and methods through the AMMR process.

Through the AMMR process, the following fire suppression components are proposed as an alternative means of meeting the intent of the fire code while best protecting the natural resources and reducing added project costs: a 16-foot minimum driveway width, one standard fire hydrant, a 4 inch water service line, replacement of the two high fire risk structures (breezeway and hay barn) with one fire-resistant structure, a water storage tank of 15,000 gallons, and sprinklers for the caretaker residence, public restroom and replacement barn. Mr. Reeves continued to review the advantages and disadvantages of the Baseline Fire Suppression requirements and the AMMR options, the replacement barn goals, size, location, and replacement barn examples. In addition, he reviewed the stakeholder engagement summary, provided an overview of key comments received, and the next steps for the project.

Director Riffle inquired if the new vendor, Chapparral, had an opportunity to comment on staff's proposal.

Assistant General Manager Brian Malone stated that staff reach out to Chapparral, and they commented that they preferred the AMMR option.

Director Riffle inquired and received information on how the new barn option would fit into the long-term plan for Bear Creek Stables.

Director Kersteen-Tucker asked what would happen if the County does not approve the AMMR proposal.

Mr. Reeves stated formal negotiations have not yet started with the Fire Marshal, and it is a formal application that will go through a series of reviews within the Fire Marshall's office. There is no guarantee that what staff is proposing will be acceptable. Staff will work within Board approvals and direction, and what is allowed within CEQA.

Director Holman inquired and received information on the CEQA constraints.

Director Holman commented that the staff report stated that the age of the breezeway and hay barns is undetermined and inquired if any analysis was done of the barns.

Mr. Reever stated that an analysis was done on the barn structures, and they do not predate 1947 and were most likely built in the 1960's to 1970's.

Director Holman inquired if the replacement barn would be at least approximately equivalent to the square footage of the two combined structures.

Senior Planner Gretchen Laustsen indicated that the budget will be a limiting factor, as will relocating all of the uses into one structure. Some of the uses may also be relocated into the existing main historic barn that is being retained, which is currently underutilized. A replacement barn location for the breezeway/hay barn has not yet been determined, and the Bear Creek Stables site overall is severely constrained with deep slopes on all sides.

President Kishimoto inquired about bringing the item back to the Board if there are any other major changes in the future, or if there were any major budget considerations.

Mr. Reeves stated that the hope is for the project to proceed smoothly and to stay within the CEQA project description, minimize budget increases, and move as quickly as possible to make the improvements.

Public comment opened at 7:55 p.m.

Katja Wick praised staff for scheduling the stakeholder meetings and hopes that there will be many opportunities to interact with staff and provide input in the future. Ms. Wick stated that keeping the box stalls for quarantine, as well as the stall and paddock behind the breezeway barn, are critical given that there is already a shortage on stall space. Also, in the past, the breezeway was part of a covered arena and suggested it would be a good improvement for the public programs to bring back a covered arena in the lower arena.

Pamela Warren commented that she believes there can be at most a 3,000 square foot barn added if it is located 50 feet away from the nearest structure(s) and not require fire sprinklers. According to Ms. Warren, there may be language in the building code that allows agriculture use of a high hazard storage structure under 3,000 square feet to be exempt from fire sprinklers. This building code may give the District some relief with the Fire Marshall's comments. In addition, she commented that the AMMR is not used for code relief and believes staff may need to provide additional alternatives to meet the qualification requested by the Fire Marshall. Lastly, she commented that both structures are severely dilapidated, and that staff should not spend money restoring them, but that staff is prudent in providing a new barn that will last and meet wind requirements.

Public comment closed at 8:04 p.m.

Director Holman inquired and received information on whether installing a fire hydrant would require additional CEQA review and how much excavation would be required.

Director Holman inquired and received information if there has been any exploration as to whether to replace the cover over the arena if that would be useful and a benefit, what the cost may be, how it might fit within the budget and long-term plan, and whether or not it is a popular notion.

Director Holman suggested that of the replacement barn examples, the second barn that is white with roll up doors does not keep in character with the setting. She also stated that barns typically have an overhang in the front and proposed having that option. In addition, the last example is the most fitting in terms of compatibility.

Director Riffle stated that he is eager to get the project started and likes the idea that the staff has come up with because he believes it is time, cost, and agency efficient. Director Riffle stated he believes it is a good use of taxpayer money to improve the stables site for the boarders and the broader public.

Director Cyr stated that while this project has taken a long time to get started, the District continues to move the project forward and that it has invested a tremendous amount of effort to get to this point, for which he is appreciative.

President Kishimoto commented that the site's location has a number of constraints and appreciates staff working with the County.

Director Holman thanked staff for their efforts adding that there have been many constraints and challenges to this project, and especially appreciates staff for working hard to narrow the driveway width to reduce the environmental impacts.

Director Gleason inquired about the possibility for revisiting the decision to allow trail rides as part of the stable operation.

Ms. Laustsen stated that staff is focused on the critical repairs, and depending on how the project moves forward, there may be an opportunity for reconsideration of trail rides.

President Kishimoto inquired as to when the decision will be made.

Ms. Laustsen commented that staff would learn more after receiving feedback from the AMMR application, attaining the use permit, and negotiations with the County to learn about what, if any, restrictions may be placed on the uses of the site.

Mr. Reeves added that once the use permit is attained, staff will have the ability to engage in more of those public program conversations with the County.

Motion: Director Riffle moved and Director Kersteen-Tucker second the amended motion to approve refinements to the Capital Maintenance and Repair Project to address Use Permit Conditions as discussed in the report and authorize the General Manager flexibility to make further minor adjustments as also discussed in the report that are aligned with the goals of the Capital Maintenance and Repair Project and within the project description as analyzed under the prior CEQA review.

ROLL CALL VOTE: 7-0-0

Director Riffle stated that he would be pleased to help in any way he can from a political standpoint to reach out to his fellow elected officials in order to keep the project moving and would leave it to staff to reach out to him or the Board.

The Board recessed at 8:23 p.m. and reconvened at 8:26 p.m. with all Directors present.

7. 2023 Awareness Survey Results (R-23-34)

Public Affairs Specialist II Ryan McCauley provided opening remarks for the 2023 Awareness Survey Results and stated that in January 2020, the District commissioned a benchmark survey to collect baseline data to understand constituent awareness of and favorability for the District, as well as values and preferences to inform future communications and outreach strategies. The repeat of essentially the same survey questions for a survey period ending in January 2023 was conducted to measure shifts in public awareness and favorability in the three years since 2020. The District contracted again with Fairbank, Maslin, Maullin, Metz & Associates (FM3) to conduct the second survey, which maintains continuity of process and data analysis. Mr. McCauley introduced Vice-President Miranda Everett from FM3 who presented the results of the survey.

Ms. Everett provided a description of the survey methodology used, reviewed the survey approach, the questions asked, and reviewed the shift changes since January 2020. Ms. Everett stated that the 2023 awareness survey found that, in keeping with the 2020 benchmark study, residents who are familiar with the District view the agency favorably, and that local residents frequently walk or spend time in nature at the open space preserves. Also, as was found in 2020, as residents learn more about the District, their impressions become substantially more favorable. Among broadly shared conservation priorities, residents again indicated they strongly value protecting the waterways and natural lands that maintain water quality and supply.

The presentation was continued by Public Affairs Manager Kori Skinner, who reviewed the implications for communications regarding how the data would be used. She noted that there had not been much change in the data and that she did not see a compelling reason to change the communication strategies currently in use. The strategies prioritize increasing awareness among audiences less familiar with the District, maximize opportunities to reach younger target audiences, and focus messaging on broad themes that resonate with residents' values. Ms. Skinner commented that if staff continues on their current course, the District should continue to have success in building a favorable awareness of its mission, program, projects, and priorities.

President Kishimoto stated that the survey is truly invaluable and helpful in understanding what the constituents are thinking and confirms the District's mission.

Ms. Skinner advised the Directors to let her know by the end of the week if they would like to discuss results from the 2023 Awareness Survey for their perspective ward.

Public comment opened at 9:26 p.m.

Ms. Soria reported there were no public speakers for this item.

Public comment closed at 9:26 p.m.

No Board action required for this item.

INFORMATIONAL REPORTS

A. Committee Reports

Director Cyr reported the Planning and Natural Resources Committee met on March 21, 2023 to review and discuss the Hawthorns Area Plan – Review of Technical Reports and Public Access Working Group Structure and Recruitment Process.

B. Staff Reports

No staff reports.

C. Director Reports

Director Cyr reported he attended the Bear Creek Redwood Preserve multi-use trail stakeholder workshop.

Director MacNiven reported that she is attending a two-day seminar at TomKat Ranch to learn more about grazing. She also mentioned that the Agricultural Policy Ad Hoc Committee has reached out to numerous stakeholder groups and those efforts are continuing.

Director Holman mentioned that Canopy Executive Director Catherine Martineau, which primarily serves Palo Alto and East Palo Alto, held a retirement celebration on March 21. It was attended by a large number of people, and there were proclamations and resolutions made in her honor, demonstrating the value that people place on the environment.

Director Riffle reported that he attended the March 21 City Council meeting of the City of Sunnyvale and spoke in favor of the Friends of Stevens Creek Trail. He also went to the TomKat Ranch seminar and the first part of the Bear Creek Redwood Preserve multi-use trail stakeholder workshop. He will also attend the Bear Creek Redwood Preserve multi-use trail stakeholder workshop for equestrians on March 23.

Director Gleason reported that he and Director MacNiven attended an amazing tour provided by District staff that included Rancho San Antonio, Bear Creek Redwoods, HWY 17, and Mount Umunhum. He also went to the Bear Creek Redwood Preserve multi-use trail stakeholder session. He participated in the Open Space Authority's March 18 trail work volunteer day at the Máyyan 'Ooyákma, which is a part of the Coyote Ridge Open Space Preserve.

President Kishimoto reported she attended two Bay Conservation and Development Commission meetings. She also stated that although there will not be any brown bag meetings in April, there are three brown bag meetings confirmed through June.

ADJOURNMENT

President Kishimoto adjourned the regular meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 9:37 p.m.

Maria Soria, MMC
District Clerk