



Midpeninsula Regional
Open Space District

R-11-21
Meeting 11-03
January 26, 2011

AGENDA ITEM 9

AGENDA ITEM

Acceptance of Report on the District's FY2009-10 Legislative Program and Adoption of FY2011-12 Legislative Program

GENERAL MANAGER'S RECOMMENDATIONS

1. Accept the FY2009-10 Legislative Program Report, as attached to this report.
2. Adopt the FY2011-12 Legislative Program, as attached to this report.
3. Authorize the Board President and General Manager to submit correspondence on behalf of the District to local, state and federal elected officials in support of, or in opposition to, pending legislation when the General Manager and General Counsel determine such positions to be in the best interest of the District in order to effectively carry out District business and accomplish the District purposes; provided that any such correspondence be copied to the full Board of Directors as part of the next agenda packet and all such correspondence is reported to the Legislative, Funding, and Public Affairs Committee on a periodic basis.

DISCUSSION

At the beginning of each two-year session of the California State legislature, staff prepares a draft Legislative Program outlining the District's legislative priorities for Board review and adoption. These priorities generally include protection of the District's percentage of property tax funding, possible development and/or sponsorship of new legislation, and monitoring and taking "support" or "oppose" positions on legislation that may have an impact on the District. Staff also prepares a report summarizing the District's progress on the past legislative program for Board review and acceptance.

An evaluation of the last legislative session is attached together with the FY2011-12 draft Legislative Program. Staff discussed the FY2009-10 Legislative Program results and the proposed FY2011-12 Legislative Program with the Legislative, Funding, and Public Affairs Committee (LFPAC) at its January 11, 2011 meeting. The Committee approved both reports and they are being forwarded to the full Board with the Committee's recommendation for approval. Staff will work with LFPAC in the future to make further non-substantive format changes designed to make

the plan easier to review: initiatives might be put in a table format so that session results can be readily compared.

The consulting agreement for legislative services in Sacramento with Ralph Heim, Public Policy Advocates, which had not increased since 1989, was adjusted last fiscal year to \$28,000 annually from a consulting fee of \$1,100.00 per month, plus a monthly expense allowance of \$55.00.

FISCAL IMPACT

There are no unbudgeted fiscal impacts from the recommended action.

PUBLIC NOTICE

Public notice was provided per the Brown Act. No additional notice is required.

CEQA COMPLIANCE

This proposed action is not a project under the California Environmental Quality Act and no environmental review is required. .

NEXT STEPS

If approved by the Board, staff will implement the District's FY2011-12 Legislative Program.

Attachment:

1. Midpeninsula Regional Open Space District Legislative Program Report on the District's 2011-2012 Legislative Program and Review of 2009-2010 Legislative Program

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ATTACHMENT 1

Midpeninsula Regional Open Space District Legislative Program Results of 2009-2010 Legislative Session

Goals for State Legislative Activity

Local property tax funding.

Goal statement

Maintain and protect the District's current percentage share of the local property tax funding.

Result

Proposition 1A, which won 84 percent support during the November 2, 2004 general election, has continued to protect local agencies such as the District-until 2009.

In June 2009 a General Fund Budget Summary released by the Department of Finance proposed that the state borrow nearly \$2 billion from special districts, cities and counties by suspending Prop 1A.

In response to the state government's plan, the District prepared a white paper and met with our legislators to urge them not to approve the suspension.

Nevertheless, on July 24, 2009 the Governor issued a proclamation declaring that due to a severe state fiscal hardship, such a suspension is necessary; and the Legislature concurred, enacting an urgency statute.

The District didn't lose any funds, however, because we participated in the securitization program, a tool which allows an agency to sell future "receivables", such as the state's constitutional obligation to repay local agencies for a 1A borrowing, in order to access the cash due from the receivables immediately. In the instance of the Proposition 1A securitization, the California Statewide Communities Development Authority was authorized to purchase the receivables due to local agencies from the state as a result of the Proposition 1A borrowing.

The legislation for the Proposition 1A securitization authorized cities, counties, and special districts to sell their state repayment obligations to California Communities. In a simultaneous transaction, California Communities issued taxable bonds and remitted the cash proceeds to the participating local public agencies, such as the District. The legislation provides that local agencies participating in the securitization program receive 100% of their respective Proposition 1A receivables.

Subdivision Map Act

Goal statement

Streamline District projects by establishing that property conveyances to and from regional open space and park districts for open space purposes are exempt from the Subdivision Map Act.

Result

In 2002/3, Sacramento legislative staff asked the District to make a good-faith effort on the local level before asking for state legislation to fix the problem. As a result District staff in the mid-2000s worked out a verbal agreement with Santa Clara County and is currently working with the county to formalize the agreement in writing. Simultaneously, staff is working with San Mateo County to streamline and improve the process when the District purchases a portion of a parcel which results in a land division or necessitates a lot line adjustment. Since these good faith efforts are currently ongoing, it is premature to ask for a legislative solution in the state's capital.

General plan conformity

Goal statement

Facilitate the acquisition and preservation of public open space by streamlining the acquisition process.

Result

In the early 2000s District staff obtained a letter from Santa Clara County stating that the District's transactions conform to their general plan. In 2002/3 Sacramento legislative staff told the District to make a good-faith effort on the local level before asking for state legislation to fix the problem. In San Mateo County, District staff is working this year on obtaining a letter similar to the one from Santa Clara County which would, however, not be applicable to agricultural lands in order to honor the wishes of our partners in the coastside farming community. The letter we seek would formalize agreements on how we apply for lot line adjustments and how we approach General Plan Conformity.

Water Quality Bond Act

Goal statement

Support a water bond act if one is placed on the 2010 ballot.

Result

The California Legislature voted on August 9, 2010 to pull the \$11 billion water bond from November's ballot and delay it for two years, a move that came as backers of the proposal became increasingly concerned about its prospects at the polls.

Expand repayment of District notes to 30 years

Goal statement

Allow the District to repay its indebtedness (notes) over 30 years in order to bring the District's payment obligations closer in line with most public bonds, which typically have a due date of 30 years.

Result

Since 2007 we have sought to introduce and pass a bill which would extend the time that the District has to repay its debt, in the form of promissory notes, to 30 years from currently 20 years. We initially succeeded in introducing a bill and passing it in the California State Assembly but our efforts were thwarted in the Senate Local Government Committee where opposition from the committee's senior staffer has since that time prevented a bill from going forward. At present we see no possibility to overcome this obstacle and will instead work on a long-term goal to obtain legislative approval.

Review of timber harvesting plans

Goal statement

Work to ensure that the District is one of the agencies which review timber harvesting plans.

Result

The state took over timber harvesting plan reviews in the early 1980s and since that time only state agencies have been a part of the review panels with the exception of those counties that were on the panels before the early 80s including San Mateo, Santa Clara and Santa Cruz. Our delegation pointed out to us that if the District were to gain a seat on these panels through legislation it would create a precedent and likely an avalanche of similar requests, which is why our delegation discouraged us from pursuing this course, especially since the District still has a strong voice through our county representatives.

Integrate open space and recreational uses on Williamson Act lands

Goal statement

Pursue methods to streamline the process of integrating open space and recreational uses on Williamson Act lands at the County and State level and promote the compatibility of open space and recreational uses and conservation easements with Williamson Act contracts.

Result

The District wanted to partner with the California Council of Land Trusts on a bill, but as the recession deepened and the state budget crisis intensified CCLT warned us that the time was not ripe to pursue legislative solution. The District and CCLT agreed to jointly pursue this goal when circumstances are better.

Future District funding measure

Goal statement

Analyze the need for a future District funding measure to be submitted to the voters.

Result

Research was conducted and a presentation was given to LFPAC in November 2010. Committee members asked for some additions to be made and for the presentation to then be given to the full Board.

Review state legislation

Goal statement

Ensure that legislators understand the impact of proposed legislation on District constituents, the natural environment, and on the District itself.

Results

- *Election recap: The November 2010 election saw California voters defeat Proposition 23, the Texas-oil-funded initiative to repeal the state's law to fight climate change against which the Board had publicly spoken out. Voters also defeated Prop 21 which would have increased vehicle license fees by \$18 a year to fund state parks. Defying the national trend, California voters re-elected Democratic Senator Barbara Boxer, the entire District delegation in the House of Representatives and they elected a Democrat as Governor (Jerry Brown). Locally, Rich Gordon was elected to the State Assembly for the first time and Jerry Hill, Paul Fong and Jim Beall were reelected to the Assembly.*
- *Opposed Assembly Bill 155 which would have required local governments, including special districts, to gain approval from the California Debt and Investment Advisory Commission (CDIAC) before filing for bankruptcy. The bill died.*
- *Worked to amend AB 979 which would have pre-empted the ability of park districts and other public agencies to prohibit hunting on publicly-owned lands.*
- *Supported Assembly Constitutional Amendment 9 which would have changed the 2/3 vote requirement for cities, counties, and special districts to raise special taxes and issue general obligation bonds to a 55 percent voter threshold because the 2/3 requirement has stymied efforts to maintain and improve local services and projects that are supported by sizeable majorities of voters. Unfortunately, the bill died in the Assembly Appropriations Committee.*
- *Wrote to Governor Schwarzenegger to express our strong opposition to his proposal to eliminate General Fund support for California's state park system.*
- *Passed a Board resolution to support the State Parks and Wildlife Conservation Trust Fund Act of 2010 on the November ballot (Prop 21) which will give voters a chance to approve a vehicle license fee of \$18 for all cars, motorcycles and recreational vehicles to create a dedicated and permanent funding source for the State Parks system and key wildlife habitats around the state.*
- *Drafted a Board resolution to support the sale of Bay Area Special License Plates which was to have been issued by the California Department of Motor Vehicles upon receipt of 7,500 paid pledges to benefit the San Francisco Bay Area Conservancy Program of the Coastal Conservancy with which the District works on conservation, habitat restoration, recreation, and other environmental projects. The license plate initiative was withdrawn and postponed due to lack of demand and the resultant shortage of paid pledges.*
- *As a member of CSDA's legislative committee, participated in regular committee meetings in*

Sacramento to discuss bills and determine which actions the association should take in support or opposition to legislation.

- *Withdrew support of SB 211, Senator Simitian's bill to authorize the formation of an open space district in Santa Cruz County because language had been added to the bill that would have transferred all control over acquisitions of property within a 25-year urban growth area boundary to the City of Watsonville. We strongly believe that this amendment would have unduly interfered with the right of private property owners to sell property to whomever they wish. We also believe that other local jurisdictions within Santa Cruz and in future open space districts would similarly want to approve acquisitions of a district and that conserving needed open space would thus have been inappropriately politicized at the local level. In short, the proposed amendment would have torn apart the fabric of open space preservation and thrown its very future into doubt. The bill died and was subsequently "gutted and amended".*
- *Advocated for AB 1962. The measure clarified our ability to accept offers to dedicate. Existing law allows a city or a county to consent to the recording of an irrevocable offer to convey any interest in real property situated within the county's or city's boundaries. This allows the local government to defer acceptance of the offer until planning, financing and regulatory requirements have been satisfied. Unfortunately, that same mechanism is not available to the various open space districts throughout the state, who are often tasked as the lead local public agency to fulfill the regional goals of resource conservation. AB 1962 corrects this problem by providing open space districts with that same authority.*
- *Obtained letters of support from Senator Simitian and Assemblymember Ruskin to help fund a Concept Plan identifying the best alignment for a public trail easement, closing a critical gap in the San Francisco Bay Trail and linking existing sections of the Bay Trail at the District's Ravenswood Open Space Preserve and University Avenue.*

Dedication of land (Riverside County case)

Goal statement

Obtain legislative solution in the event that the California Supreme Court upholds the Gerard Ste. Marie v. Riverside County Regional Park and Open Space District case.

Result

No legislative solution was necessary because the California Supreme Court reversed the judgment of the Court of Appeal in the Gerard Ste. Marie v. Riverside County case in May 2009.

The Fourth District Court of Appeal had held that Section 5540 of the Public Resources Code (which states that an open space district can't convey land actually dedicated for open space purposes except by majority vote of its constituents or concurrent resolution of the legislature) means that any land or interest in land acquired is automatically dedicated in perpetuity, without any need for an affirmative act of dedication by the Board of Directors. This decision, which the California Supreme Court overturned, would have negatively impacted the District's ability to plan its preserves, and the District's financing alternatives such as lease financing. Riverside

County sought review in the Supreme Court, which was granted. We and four other Districts had filed an amicus brief in support of Riverside.

Goals for Federal Legislative Activity

Cleanup for the former Almaden Air Force Station

Goal statement

Seek Federal legislative assistance in securing funding for the cleanup of the former Almaden Air Force Station (AFS) at Mt. Umunhum in the Sierra Azul Open Space Preserve.

Result

The District obtained a federal allocation of \$3.2 million in the FY 2010 Defense Appropriations Act for the cleanup of Mt. Umunhum.

Land and Water Conservation Fund

Goal statement

Work with the new administration to ensure full funding of the stateside Land and Water Conservation Funds.

Result

The District wrote several letters in late 2009 to support a bill to fully fund the Land and Water Conservation Fund (LWCF) at the authorized annual level of \$900 million. On July 30, for the first time in over a decade, the House of Representatives passed a bill to fully dedicate the Land and Water Conservation Fund at that level.

Moffett Field

Goal statement

Support efforts to build levees in order to restore the salt ponds at Site 25 to tidal standard.

Result

We are continuing to support efforts by third parties who seek assistance from the Corps of Engineers to build levees in order to restore the salt ponds at Site 25 to tidal standard.

Review Federal Legislation

Goal statement

Ensure that federal legislators understand the impact of proposed legislation on District constituents, the natural environment, and the District itself.

Results

- *The review is ongoing.*
- *We wrote to U.S. Agriculture Secretary Vilsack to strengthen APHIS Q-37 screening of plant imports to prevent introduction of invasive species so that the Bay Area, and elsewhere, has to spend significantly fewer resources controlling invasive plants such as Slender False Brome, thistle and coyote brush.*

**Midpeninsula Regional Open Space District Legislative Program
For 2011-2012 Legislative Session**

Goals for State Legislative Activity

Local property tax funding.

Goal statement

Maintain and protect the District's current percentage share of the local property tax funding.

Problem/opportunity description

Proposition 1A, which won 84 percent support during the November 2, 2004 general election, has continued to protect local agencies such as the District by requiring the state to pay back borrowed tax revenues within three years with interest and limiting such borrowings to twice in a ten-year period. The first borrowing occurred in 2010. Monitor the legislative process for proposals that seek to reduce the District's share of property taxes.

Proposed action

Work with the District's legislators to ensure they are aware of the impacts any further taking of the District's funding would have on the provision of services and on protecting the land.

Water Quality Bond Act

Goal statement

Support a water bond act if one is placed on the 2012 ballot.

Problem/opportunity description

On November 7, 2006, 53.9 percent of voters passed Proposition 84, the 5.4 billion dollar "Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006". The District can apply for and benefit from grants made available through the Sustainable Communities and Climate Change Reduction chapter in Proposition 84 as well as grants available through the Statewide Park Act which awards funds for the creation of new parks and facilities.

Proposed action

After successful passage of the Water Quality Bond Act of 2006, support campaign if another Bond Act is placed on the 2012 ballot.

Expand repayment of District notes to 30 years

Goal statement

Allow the District to repay its indebtedness (notes) over 30 years in order to bring the District's payment obligations closer in line with most public bonds, which typically have a due date of 30 years.

Problem/opportunity description

If the District were able to repay its debt over 30 years instead of 20 years it would expand the debt available and allow the agency to better carry out its core mission by purchasing more land to acquire and preserve a regional greenbelt of open space preserves. Increased purchases of open space are a benefit that would outweigh the higher interest the District would pay over time. During the last session the District received substantial resistance from Senate staff who argued that such a change should require a two-thirds vote of the people. Since 2007 we have sought to introduce and pass a bill but at present we see no possibility to overcome this obstacle but, instead, there is an opportunity to work on a long-term goal to obtain legislative approval.

Proposed action

Work to implement a long-term goal of creating and passing a bill to change the District's enabling legislation by amending Public Resources Code Sec. 5544.2 to allow 30 years for repayment of district indebtedness. Initial contacts with legislators and committee staff have already been made.

Integrate open space and recreational uses on Williamson Act lands

Goal statement

Pursue methods to streamline the process of integrating open space and recreational uses on Williamson Act lands at the County and State level and promote the compatibility of open space and recreational uses and conservation easements with Williamson Act contracts.

Problem/opportunity description

The District, like many other agencies, owns land subject to old and antiquated Williamson Act contracts which state that open space and recreational uses are not consistent. These older contracts were written prior to modern amendments made to the Williamson Act but they nevertheless remain in effect. As a result, it can be difficult to integrate open space and recreational uses with our contracts. For example, for even a minor addition such as a parking lot, the District, under the old Williamson contracts, has to obtain a permit from the county (called a "Compatible Use Determination"). This amounts to a waste of time and money because the modern Williamson Act states that open space and recreational uses *are* compatible.

Proposed action

Work with cities and counties to integrate open space and recreational uses on open space lands under the Williamson Act and partner with the California Council of Land Trusts and other 5500 Districts to pursue a legislative solution. However, because the economic situation in California remains fragile and recovery is predicted to be slow, it is hard to say how successful a drive to resolve this issue will be during the 2011-2012 session.

Subdivision Map Act

Goal statement

Streamline District projects by establishing that property conveyances to and from regional open space and park districts for open space purposes are exempt from the Subdivision Map Act.

Problem/opportunity description

The District would like to exempt regional park and open space districts from provisions of the Subdivision Map Act which add an unnecessary layer of bureaucracy to the purchase of open space by specifying that land uses must first be submitted to the local planning agency for review before it acquires real property. This is because the primary purpose of the Map Act is to regulate the design of development but special districts can only buy land for park and open space purposes upon which there will be no development so that there is no need for the regulation of subdivision design

Proposed action

As directed by Sacramento legislative staff, make a good-faith effort on the local level and work to formalize a verbal agreement with Santa Clara County in writing and by working with San Mateo County to streamline and improve the process when the District purchases a portion of a parcel which results in a land division or necessitates a lot line adjustment. If efforts fail, work on a legislative solution in the state's capital by developing a bill to amend Government Code Section 66412 of the Government Code to clearly establish that property conveyances to and from regional open space and park districts solely for open space purposes are exempt from the Subdivision Map Act. To this end, add the following section to the Government Code:
66412.4. This division shall not apply to conveyances of land or interests in land, to or from a regional park and open space district established pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of the Public Resources Code, when the conveyances are solely for the purposes of open space preservation.

General plan conformity

Goal statement

Facilitate the acquisition and preservation of public open space by streamlining the acquisition process.

Problem/opportunity description

Prior to acquiring real property, a local agency such as the District must submit the proposal to the applicable county or city planning agency which then has 40 days to provide a report that the proposal conforms to the applicable general plan. The District is technically allowed to ignore the ruling it gets back, but in some counties the simple act of inquiring and getting an answer back delays the purchase process by weeks and adds an extra public notice cycle. This can be a problem because real estate transactions regularly need to occur as promptly as possible or the purchase opportunity may be lost to a private buyer. We would like to change the law by seeking an exemption because this statute can significantly interfere with the preservation of open space, yet serves no useful purpose since the statutory purpose of open space districts is the

acquisition and preservation of open space. Development on such lands is by definition minor and any development would still be subject to the full regulatory processes of the city and county in which the land is located, even with the exemption we are proposing below.

Proposed action

As directed by Sacramento legislative staff, make a good-faith effort on the local level by obtaining a letter from San Mateo County that is similar to the one obtained from Santa Clara County, stating that the District's transactions conform to the county's general plan – with the exception that transactions affecting agricultural lands will not be affected in order to honor the wishes of the District's partners in the coastside farming community. If efforts fail, work on a legislative solution in the state's capital by seeking a narrow exemption to Government Code Section 65402(c) for regional park and open space districts by amending the last sentence of this statute to read as follows (add language that's in italics): "Local agency does not include the state, or county, or a city, *or a regional park and open space district established pursuant to Division 5, Chapter 3, of the Public Resources Code.*"

Future District funding measure

Goal statement

Begin laying the groundwork for a future District funding measure to be submitted to the voters.

Problem/opportunity description

In order to ensure the long-term success of the District, if LFPAC and the Board determine that a funding measure should be brought before the voters, District staff could begin laying the groundwork for a measure by conducting studies and outreach to constituents.

Proposed action

Carry out activities that lay the groundwork for a future District funding measure to be submitted to the voters.

Review State Legislation

Goal statement

Ensure that legislators understand the impact of proposed legislation on District constituents, the natural environment, and on the District itself.

Problem/opportunity description

During each legislative session bills are forwarded that would have a negative impact on the District just as there are bills whose effects would be positive. In each case the District needs to take a position opposing or supporting bills.

Proposed action

Review state legislation and support, oppose, or seek amendments to those bills that impact the District.

Goals for Federal Legislative Activity

Cleanup for the former Almaden Air Force Station

Goal statement

Seek Federal legislative assistance in securing funding for the cleanup of the former Almaden Air Force Station (AFS) at Mt. Umunhum in the Sierra Azul Open Space Preserve.

Problem/opportunity description

Continue to work with the District's congressional delegation to obtain additional federal funding to help with the cleanup.

Proposed action

Seek federal legislative assistance in securing funding for the cleanup of the former Almaden Air Force Station. The likelihood of success has diminished this year because Republicans, who won a majority of the House last November, have vowed to eliminate funding directed by individual members of Congress.

Land and Water Conservation Fund

Goal statement

Work with the administration to ensure full funding of the stateside Land and Water Conservation Funds.

Problem/opportunity description

The Land and Water Conservation Fund (LWCF) Act designated that a portion of receipts from offshore oil and gas leases be placed into a fund annually for state and local conservation, as well as for the protection of our national treasures such as parks, forest and wildlife areas.

LWCF is authorized at \$900 million annually, a level that has been met only twice during the program's 40-year history. On July 30, 2010 for the first time in over a decade, the House of Representatives passed a bill to fully dedicate the Land and Water Conservation Fund at its authorized level of \$900 million a year. However, a few days before Christmas Arizona Sen. John McCain blocked passage of the Great Outdoors Act of 2010, which contained legislation on LWCF, after the removal of his own proposal to promote a land exchange in Arizona to allow a new copper mine.

Proposed action

Any bill will likely face an uphill battle in the next Congress when there will be a Republican-controlled House and a slimmer Democratic majority in the Senate, which is why we need to continue our work with the administration and the federal legislature to ensure full funding of the LWCF.

Review Federal Legislation

Goal statement

Ensure that federal legislators understand the impact of proposed legislation on District constituents, the natural environment, and the District itself.

Problem/opportunity description

During each federal legislative session bills may be forwarded that would have a negative impact on the District just as there are bills whose effects would be positive. In each case the District should take a “support” or “oppose” position.

Proposed action

Review specific pieces of Federal legislation and support, oppose, or seek amendments to those bills that impact the District.