



Midpeninsula Regional  
Open Space District

R-14-11  
Meeting 14-01  
January 8, 2014

## **AGENDA ITEM 9**

### **AGENDA ITEM**

Partnership Guidelines for the Mount Umunhum Radar Tower

### **LEGISLATIVE, FINANCE, AND PUBLIC AFFAIRS COMMITTEE (LFPAC), AND GENERAL MANAGER'S RECOMMENDATIONS**

To define the partnership parameters for external fundraising for the Mount Umunhum radar tower, LFPAC and the General Manager recommend the following:

1. Define the District relationship with a fundraising entity whose mission is to raise funds to permanently retain the radar tower as an informal relationship, until that organization has met minimum requirements established by the District Board of Directors, as detailed below.
2. Direct the General Manager and General Counsel to work with the organization(s) to establish a Memorandum of Understanding (MOU) once minimum requirements are met.
3. For the Board to consider an MOU, set the minimum partner funding commitment for long-term repair and maintenance costs at \$625,000; this is 50% of the sum of the escalated construction costs (\$500,000) plus 50% of the 20-year maintenance costs (\$125,000) (see Attachment 1).
4. Confirm that minor maintenance is to be funded by the District until long-term repairs are implemented, at which time all maintenance costs would be funded by a fundraising entity or outside partner (estimated timeframe: three to five years).
5. Approve allocating up to 40 hours of District staff time for preparation, arrangements, and escorting potential partners and their prospective donors to Mount Umunhum at no cost to the fundraising entity.
6. Prohibit the District from accepting public funds for long-term radar tower repairs at this time.
7. Direct the General Manager to redirect public inquiry regarding fundraising for the radar tower to the fundraising entity both verbally and in writing, as opposed to maintaining a District link from its web page to the fundraising entity.

## SUMMARY

This report defines minimum partnership recommendations by LFPAC for any fundraising entity whose mission is to raise funds to permanently retain the radar tower at Mount Umunhum. In October 2012, the Board of Directors (Board) approved the Retain and Seal option for the radar tower to allow interested members of the public to raise funds within a five year timeframe for the long-term repair and maintenance of the structure. Staff has subsequently been working with LFPAC to define the appropriate parameters for this new type of partnership. LFPAC met three times in 2013 (March, June, and October) to define an approach for partnering with a nonprofit 501(c)(3) organization or similarly qualified fundraising entity to repair the Mount Umunhum radar tower. LFPAC passed motions to forward the seven recommendations presented in this report to the full Board.

## DISCUSSION

At its October 17, 2012 meeting for the Mount Umunhum Environmental Restoration and Public Access Project (Project), the Board approved Interim Action A for the radar tower, allowing for minimum, near-term “Collapse Prevention” repairs (as defined by Santa Clara County) to allow safe public access to the exterior base of the structure for a period of approximately five years following the repairs (R-12-104). This action is an initial step toward implementing any of three permanent radar tower options (Retain and Seal, Open Air, and Restoration), and provides time for radar tower advocates to partner with or form a new nonprofit 501(c)(3) organization or similarly qualified fundraising entity to raise funds for the long-term repair of the radar tower under the Retain and Seal option. The Board reserved the authority to define what constitutes a suitable partnership. Any arrangement between the District and an outside entity would be considered a “potential” partnership until all minimum requirements are met.

As this is a new approach for the District, the mechanism for proceeding, consistent with Board direction, was discussed at three LFPAC meetings held in 2013. The recommended partnership parameters are being forwarded to the full Board for approval as discussed below.

## LFPAC RECOMMENDATIONS

- 1. Define the District relationship with a fundraising entity whose mission is to raise funds to permanently retain the radar tower as an informal relationship, until that organization has met minimum requirements established by the District Board of Directors.**

By defining what constitutes a suitable partnership for fundraising, the Board will set expectations for outside groups wishing to engage in this effort. The recommendation put forth by LFPAC to consider any partner a “potential” partner until minimum qualifications are met is intended to maximize partnering opportunities while minimizing risks to the District.

- 2. Once the minimum requirements are established, direct the General Manager and General Counsel to work with the organization(s) to establish a Memorandum of Understanding (MOU).**

Once the Board establishes the kind of involvement and relationship it wants with the outside fundraising entity, including the approval of the minimum funding commitment, the General Manager with guidance from the General Counsel would determine how to implement that

strategy within the context of an MOU. The MOU would further refine terms for a relationship between the District and a fundraising entity. Terms may include, but would not be limited to the following:

- Verification of legally recognized 501(c)(3) or similarly qualified fundraising entity;
- Billing and rates for District staff time to arrange for site visits that exceed the approved time limit (proposed time limit is currently 40 hours); and
- A schedule of annual reports and meetings.

These terms would then be reviewed by LFPAC and subsequently forwarded to the full Board for approval.

- 3. For the Board to consider an MOU, set the minimum partner funding commitment for long-term repair and maintenance costs at \$625,000; this is 50% of the sum of the escalated construction costs (\$500,000) plus 50% of the 20-year maintenance costs (\$125,000) (see Attachment 1).**

### *Construction*

The Board is asked to define the minimum partner funding commitment for the Retain and Seal option (or long-term repair) for the radar tower to include escalation costs to the year of construction, as shown in Attachment 1. Since it is unknown in what year a fundraising entity will raise the 50% minimum requirement for construction, staff recommends this value be set at \$500,000, which is a general average of escalated construction costs until the fundraising deadline of October 2017.

At its October 17, 2012 meeting when the Board approved consideration of external partnerships, the Board strongly focused on the requirement that any partner would need to commit to providing the total construction cost for the long-term “Life Safety” repairs to the radar tower, as defined by the County of Santa Clara and described under the Retain and Seal option. Staff recommends remaining consistent with this requirement.

The District is already committed to funding the minimum, near-term “Collapse Prevention” repairs in the amount of \$415,000 for the radar tower. These funds contribute to the overall cost of long-term repairs and are already factored into the calculation for the total minimum funds required for the Retain and Seal option. Attachment 1 provides escalated construction costs for the Retain and Seal option, including “Collapse Prevention” repairs.

Typically, any construction project requires a minimum of one year for project design and engineering, a second year for permitting, and a third year for construction. Therefore, the escalated construction costs shown in Attachment 1 should be interpreted as follows: if potential partners are required to raise 100% of construction funds by the target date of October 2017, a minimum of \$1,052,427 would be needed for construction three years from that date, or in this case, in the year 2020. If any delays are encountered during permitting and construction that are outside the authority of the District, which is not uncommon, this amount could increase; however, if construction bids come in unexpectedly low, this amount could decrease. These occurrences are unpredictable, and therefore, this minimum amount is the best estimate the District has at this time. If the minimum funding for the Retain and Seal option is met prior to the deadline of October 2017, details on transferring those funds to the District for implementation would be defined in a future MOU.

### *Maintenance*

The Board is also asked to define the minimum partner funding commitment for maintenance for a time period of 40 years, including 50% of the twenty-year maintenance costs to address as-needed unanticipated emergency and public safety work. The twenty-year maintenance costs are estimated at \$250,000 (primarily for roof replacement), so under this scenario, a fundraising entity would be required to raise fifty percent of that, or \$125,000, for the Board to consider entering into an MOU. These funds are separate from the construction funds, and would need to be added to the 50% minimum funding requirement for construction.

Throughout the radar tower evaluation, the Board expressed concern about how the long-term maintenance of structures like the radar tower does not align with the District's mission statement. Even if an entity were to successfully fundraise for the permanent repairs, the question of responsibility for long term maintenance and repair costs still remains.

Staff recommends that the funding responsibility for maintenance and repairs be placed on the fundraising entity for any work that is required beyond what District staff would customarily provide for other District structures. District field staff is limited by safety requirements on what type of maintenance work they can provide for any facility. For the radar tower, District staff can only commit to graffiti removal up to the first floor, or as high as a coating could be applied with an extension roller from the ground. Responsibility for all other repair would fall upon the fundraising entity, including paying for periodic inspection services by a qualified structural engineer.

It is not possible to exactly predict the future maintenance requirements; however, order-of-magnitude estimated costs were developed and presented to the Board as part of the Conceptual Cost Estimate by TDB Consultants and Restoration Design Group in July 2012 (see Report R-12-75). According to that report, in addition to construction costs, maintenance costs for the Retain and Seal option add an additional \$250,000 by year 20 and an additional \$500,000 by year 40, for a total estimated 40-year cost of maintenance of \$750,000. Forty-year maintenance costs include the following:

- Roof replacement at 20 and 40 years
- Repainting with scaffolding
- Exterior crack repairs approximately every 15 years
- Anti-vandal repairs
- Insurance

There are many ways to approach the requirement of fundraising for structure maintenance, the terms of which would be defined within the context of an MOU; however, the \$125,000 held for maintenance could essentially become a reserve to address unanticipated emergency work (e.g. earthquake damage) to protect the public from potential hazards until repair work can occur, or to make necessary repairs that might otherwise cost more in the long-term if not implemented immediately (e.g. patching a roof leak). This fund would also allow for the quick installation of perimeter fencing and other safety measures to provide for public safety while still allowing the summit to remain open to the public.

- 4. Confirm that minor maintenance is to be funded by the District until safety repairs are implemented, at which time all maintenance costs would be funded by a fundraising entity or outside partner (estimated timeframe: three to five years).**

“Collapse prevention” repairs to allow safe public access to the exterior base of the structure for a period of five years following repair are anticipated to occur in 2015. Public access to the summit is anticipated to occur in 2017, which is also the deadline for fundraising. It is anticipated that a fundraising entity would require the full time period to raise funds, placing construction at year 2020. The District recommends providing minimal maintenance for the time period between public opening until the long-term construction is implemented, at which time maintenance of the entire structure would become the sole responsibility of the fundraising entity. The District assumes that any fundraising entity would require the full time period until 2017 to raise funds, and construction would commence three years from that date, or 2020; therefore, minor maintenance would occur for a period of approximately three to five years, including cleaning and vandal repair.

It is not possible to predict future major earthquake activity or related damage. However, the minimum, near-term “Collapse Prevention” repairs to allow public access to the exterior base will include repairs of damage resulting from the prior Loma Prieta quake of 1989. In the event of a major earthquake or other event that results in new damage to the radar tower, the General Manager would return to the Board with recommended next steps on how to proceed.

- 5. Approve allocating up to 40 hours of District staff time for preparation, arrangements, and escorting potential partners and their prospective donors to Mount Umunhum at no cost to the fundraising entity.**

The District would provide up to 40 hours of staff time for preparation, arrangements, and escort site visits to Mount Umunhum for potential partners and their prospective donors (assuming four hours per round trip including travel) at no cost to the fundraising entity. Phone calls, Committee and Board meetings, and other work associated with this project would not be included. This time would be provided to a potential partner who has made contact with the District without having an MOU in place.

- 6. Prohibit the District from accepting public funds for long-term radar tower repairs at this time.**

It is imperative that total separation of funds occur between external entities and the District. The District held initial discussions on the possibility of accepting donations internally, but after further evaluation determined that it would be best not to accept funds directly because if collections fell short of the goals set forth by the Board, the money collected would need to be returned. This would require a considerable amount of staff time to monitor funds for five years and return it to the donors, potentially with interest. Furthermore, these funds would need to be tracked for the entirety of the collection period, requiring additional staff time to set up an accounting system to track and report its status during the annual and midyear budget cycles. The District is not equipped to handle these additional administrative and reporting responsibilities. However, nothing would preclude the District from accepting funds to support the *short-term* repairs the District is already committed to funding for the minimum, near-term “Collapse Prevention” in the amount of \$415,000 for the radar tower.

**7. Direct the General Manager to redirect public inquiry regarding fundraising for the radar tower to the fundraising entity both verbally and in writing, as opposed to maintaining a District link from its web page to the fundraising entity.**

To date, there is only one known entity that has approached the District as a potential partner, known as the Umunhum Conservancy, Incorporated (UCI). Representatives from UCI have attended all three LFPAC meetings and have engaged in discussion with the Committee. Regardless of whether or not this entity remains the singular interested organization, when the District receives public inquiry regarding fundraising for the radar tower, the District would simply redirect public inquiry to the fundraising entity or entities. Even if the District entered into an MOU with one or more organizations, there would be no link from its web page to the web page of these external organizations to avoid the false appearance of endorsement.

### **FISCAL IMPACT**

There are no immediate fiscal impacts to the District associated with this item. If the Board approves the recommendations as set forth in this report, the District may need to budget funds for minor maintenance of the radar tower, as the need arises, for a period of approximately three to five years.

### **BOARD COMMITTEE REVIEW**

LFPAC met three times on the following dates with the following recommended actions:

#### **March 5, 2013**

The Committee directed staff to return at a future meeting with amendments to the recommendations that include limiting the amount of staff time used for fundraising efforts and refining three approaches for District involvement with an external fundraising entity (Attachment 2).

#### **June 4, 2013**

The Committee approved the proposed partnership approach with a fundraising entity, consisting of Recommendations 1, 2, 5, 6, and 7 of this report. LFPAC also authorized the General Manager to assign a District liaison as a point of contact (Attachment 3).

#### **October 8, 2013**

The Committee approved the minimum funding commitment needed to consider entering into an MOU with an external fundraising entity to address repair and long-term maintenance costs, and a plan for addressing interim repairs to the radar tower as discussed in Recommendations 3 and 4 of this report (Attachment 4).

### **PUBLIC NOTICE**

Public notice was provided as required by the Brown Act. The Umunhum Conservancy, Inc. (Conservancy) was also sent a notice of this Agenda Item. To date, the Conservancy is the only external fundraising group who has made contact with the District.

## CEQA COMPLIANCE

Defining an approach to external partnerships does not constitute a project under the California Environmental Quality Act (CEQA) as it will not result in a direct physical change in the environment.

Pursuant to CEQA, the Midpeninsula Regional Open Space District (MROSD), as lead agency, approved the final portion of the Mount Umunhum Environmental Restoration and Public Access Project (Project) and adopted the Final Environmental Impact Report (FEIR), including a Mitigation Monitoring Plan (MMP) on October 17, 2012. Repairs to the radar tower were included as part of the Project. The FEIR included findings that all potentially significant impacts from the project were either avoided or mitigated, and no findings of overriding consideration were required. On October 23, 2012, MROSD filed its Notice of Determination with the County Clerk of Santa Clara County. No challenges to the project were made.

## NEXT STEPS

The Project Manager (and contact person for this report) will act as the District liaison and handle public inquiries, redirect the public to external groups, and engage with external fundraising groups who make contact with the District. The liaison will organize and track staff hours for arranging prospective donor visits to the radar tower once the interim radar tower repairs have been completed, which is anticipated to occur by the end of calendar year 2014. This assignment is expected to involve minimal time, and yet play a crucial role in setting expectations regarding the District's role and involvement. Once an external group has met the Board-approved minimum requirements consisting of the recommendations put forth in this report and including any changes or additions, the liaison will work with Legal Counsel to develop an MOU with the external group.

Simultaneously, staff anticipates moving forward to finalize design, permitting, bidding, and construction work for the "Collapse Prevention" repairs to the radar tower in Fiscal Year 2014-15.

### Attachment(s)

1. Retain and Seal Option & Interim Action A Budget Analysis
2. Approved minutes of LFPAC meeting on March 5, 2013
3. Approved minutes of LFPAC meeting on June 4, 2013
4. Approved minutes of LFPAC meeting on October 8, 2013

Responsible Department Head:

Meredith Manning, Co-Acting Planning Manager and Senior Planner

Prepared by:

Report: Meredith Manning, Co-Acting Planning Manager and Senior Planner

Attachment 1: Gina Coony, Planner III

Contact person:

Meredith Manning, Co-Acting Planning Manager and Senior Planner

**Attachment A (Page 1 of 2)**  
**Mount Umunhum Radar Tower**  
**Retain and Seal Option & Interim Action A Budget Analysis**  
**Construction Costs - 2012 Dollars**

Project Cost - 2012 Dollars

Retain and Seal - TOTAL CURRENT ESTIMATED COST	\$1,105,876
Retain and Seal - PHASED PROJECT COST	
PHASE 1 - Interim Action A (District Funded)	-\$414,855
Balance cost of Retain and Seal option	\$691,021
PHASE 2 - Cost for remaining Retain and Seal scope	
Additional soft costs (15%) of balance Design / engineering, permitting, project management	\$103,653
Additional hard costs (10%) of balance Contractor mobilization, insurance, overhead, profit	\$69,102
<b>Total Construction Cost in 2012</b>	<b>\$863,776</b>

**PHASE 1 SCOPE - NEAR-TERM INTERIM ACTION A:**

Interim Action A actions: seal first floor openings with concrete, and all floors above with sheet metal; repair all cracks on first floor and install graffiti coating on first floor; secure interior doors; implement safety upgrades to interior stairs; install new roof guardrails and roof hatch; and make repairs to roof drains.

**PHASE 2 SCOPE -REMAINING LONG-TERM RETAIN and SEAL SCOPE:**

Completed after Interim Action A, this work includes: repair of all cracks on radar tower; installation of new roof; new graffiti-resistant coating to entire exterior; and sealing all openings with concrete.

**BUDGET ASSUMPTIONS:**

1. Budget calculated at **concept** level. Factors such as regulatory changes could influence costs beyond a standard 2.5 percent per year escalation rate.
2. Concept Budget is based on strict alignment with scope outlined for Retain and Seal; any deviation could impact budget. Concept budget reflects minimum commitment required.



**Attachment A (Page 2 of 2)**  
**Retain and Seal Option following Interim Action A**  
**Escalated Construction Costs for Radar Tower**  
**for Five Years following Fundraising Deadline**

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
One-time construction costs including three-year escalation (\$)	863,776	953,447	977,283	1,001,715	1,026,758	1,052,427	1,078,738	1,105,706	1,133,349	1,161,683	1,190,725



Midpeninsula Regional  
Open Space District

## **SPECIAL MEETING**

### **LEGISLATIVE, FUNDING AND PUBLIC AFFAIRS COMMITTEE**

Administration Office – Long Ridge

330 Distel Circle

Los Altos, CA 94022

## **MINUTES**

**March 5, 2013**

### **I. ROLL CALL**

Director Harris called the Special Meeting of the Legislative, Funding and Public Affairs Committee (LFPAC) to order at 2:00 p.m.

Members Present: Cecily Harris, Yoriko Kishimoto, and Nonette Hanko

Members Absent: None

Staff Present: General Manager Steve Abbors, Docent Program and Acting Public Affairs Co-Manager Renee Fitzsimons, Acting Planning Manager Meredith Manning, and District Clerk Michelle Radcliffe

### **II. ORAL COMMUNICATIONS**

There were none.

### **III. ADOPTION OF THE AGENDA**

Director Kishimoto requested that Agenda Item #3 be heard after Agenda Item #1.

**Motion:** Upon motion by Director Kishimoto, seconded by Director Harris, the Committee adopted the agenda as amended. (Vote: 3-0-0)

### **IV. COMMITTEE BUSINESS**

#### **A. Agenda Item #1 – Approval of February 12, 2013 Minutes**

Director Hanko requested that if the previously approved minutes were amended that it be included in the Committee packet so that the Committee is aware of the amendments.

**Motion:** Upon motion by Director Harris, seconded by Director Kishimoto, the Committee approved the February 12, 2013 Minutes. (Vote: 3-0-0)

**B. Agenda Item #3 – District’s Plans for Accepting Funds for Mount Umunhum**

Acting Planning Manager Meredith Manning explained that District staff needed direction on how the process of accepting funds for the Mount Umunhum project. She presented the General Manager’s recommendations: 1) working with the General Counsel’s Office to spell out appropriate terms for the District’s relationship with any 501(c)3 organization that approaches the District as a potential partner for the project; 2) Prohibit the District from accepting public funds for the radar tower preservation. Instead, direct public inquiry to known existing 501(c)3 organization(s) who have contracted the District; and 3) Authorize the General Manager to assign a District liason as a point of contact for public inquiries, and to remain in communication with the 501(c)3 organization(s). Discussion ensued.

Director Harris expressed her concerns regarding the amount of staff time being used for any potential partnerships. She stated that a limited number of staff hours should be dedicated to partnership/outreach efforts. Director Kishimoto also expressed her concerns and stated that a Memorandum of Understanding will need to be drafted between the District and any potential organizations. Extensive discussion ensued.

**Public Comment:** Sam Drake, President of the Umunhum Conservancy, shared his thoughts regarding the General Manager’s recommendations.

The Committee directed staff to return to a future meeting with amendments to the recommendations that include limiting the amount of staff time that will be used for fundraising efforts and providing guidelines for

**C. Agenda Item #2 – Social Media and Electronics Communications Policies**

District Clerk Michelle Radcliffe briefly explained the amendments made to the Social Media Policy and the Electronics Communications Policy. The Committee stated that most of the language in the Electronics Communications Policy pertained to District employees and not the Board. The Committee directed staff to remove language pertaining to District staff and to create an Electronics Communications Administrative Policy for District staff to sign and placed in their employee file. The Committee also agreed to accept the Social Policy as presented and asked that staff bring it forward to the full Board when the Board Electronics Communications Policy has been approved by the Committee.

**D. Agenda Item #4 – Update on Capital Finance Program**

General Manager Steve Abbors reported that polling survey is currently being drafted and will be conducted shortly. He stated that the results will be shared with the Committee at an upcoming meeting.

**E. Agenda Item #5 – Informational Items**

There were no informational items shared.

**V ADJOURNMENT**

The next LFPAC meeting was tentatively scheduled for April 16, 2013 at 3:00 p.m.

Chair Hanko adjourned the Special Meeting of the Legislative, Funding and Public Affairs Committee at 4:21 p.m.

Michelle Radcliffe, CMC  
District Clerk



Midpeninsula Regional  
Open Space District

Legislative, Funding and Public Affairs Committee  
June 4, 2013

## REGULAR MEETING

### LEGISLATIVE, FUNDING AND PUBLIC AFFAIRS COMMITTEE

Administration Office – Long Ridge  
330 Distel Circle  
Los Altos, CA 94022

## APPROVED MINUTES

June 4, 2013

### I. CALL TO ORDER

Director Hanko called the Special Meeting of the Legislative, Funding and Public Affairs Committee (LFPAC) to order at 2:06 p.m.

### II. ROLL CALL

Members Present: Cecily Harris, Yoriko Kishimoto, and Nonette Hanko

Members Absent: None

Staff Present: General Manager Steve Abbors, Acting Planning Co-Manager Meredith Manning, Public Affairs Manager Shelly Lewis, Docent Program Manager Renee Fitzsimons, General Counsel Sheryl Schaffner, Planner III/Project Manager Gina Coony, and Public Affairs Administrative Assistant Teresa Gibson

### III. ORAL COMMUNICATIONS

None

### IV. ADOPTION OF THE AGENDA

**Motion:** Director Kishimoto moved, and Director Hanko seconded a motion to adopt the agenda.

VOTE: 3-0-0

V. COMMITTEE BUSINESS

**Agenda Item #1 – Approval of May 7, 2013 Minutes**

**Motion:** Director Kishimoto moved, and Director Hanko seconded the motion to approve the minutes for the May 7, 2013 LFPAC meeting.

VOTE: 3-0-0

**Agenda Item #2 – Discussion on the District’s Plans for Accepting Funds for Mount Umunhum**

Acting Planning Co-Manager Meredith Manning asked the Committee to review and approve the items the General Manager has recommended and to choose one of the three recommended approaches for working with Umunhum Conservancy, Inc. (the Conservancy). Extensive discussion ensued.

The Committee is in favor of creating a Memorandum of Understanding (MOU) with the Conservancy and discussed when would be the appropriate time to initiate it. Also discussed was how a new non-profit would demonstrate its fundraising history when it is a new organization.

Ms. Manning responded that the Conservancy needs to commit to raising the full amount. As for providing fundraising history, this could be demonstrated by looking at the fundraising history of the individual board members of the non-profit.

Discussion ensued concerning which approach to take in regards to a relationship with the Conservancy. The Committee favored elements from several of the approaches. The Committee decided to not have a link to the Conservancy on the District Web site.

Conservancy President Sam Drake responded that his organization is happy to work with the District in any of these approaches as all will work. However, he stated that 40 hours of staff time for site visits over the course of five years is not sufficient, and none of the approaches provides enough time to allow potential donors to visit the site. Mr. Drake also inquired as to how staff time is measured and requested clarity on this topic. Mr. Drake agreed that a relationship between both organizations should be reviewed in the future. Lastly, Mr. Drake stated that although a link on the District’s Web site would be nice, it is not necessary. Ms. Manning responded to the questions raised by Mr. Drake.

Discussion regarding when to create a Memorandum of Understanding (MOU) with the Conservancy was held. The Committee agreed that when half the funds have been raised, the District will draft an MOU with the Conservancy. Discussion was held regarding potential contingencies that could be included in the MOU. Mr. Drake commented that it is reasonable to expect the Conservancy to fund both the rehabilitation of the radar tower as well as long-term maintenance and requested that clear, definite costs be spelled out. Mr. Drake also stated that the Conservancy prefers the District be proactive with entering into an MOU, but stated it can function with its mission without one.

General Manager Steve Abbors agreed that parameters need to be set in the event that a natural catastrophe severely damages the tower. Discussion ensued. Conservancy Board Member Basim Jaber stated that although future damage cannot be predicted, the proposed repairs to the radar tower will strengthen it. Mr. Jaber also noted that the Conservancy is considering purchasing insurance on this project.

Director Kishimoto held discussion on “Question 6: Maintenance and Security 1.9 M for 40 years” and inquired to what extent the Conservancy is committed to this. Mr. Drake responded that the Conservancy is willing to agree that maintenance is part of its responsibility, but the full amount not be in the bank at the time an MOU is created. He stated that requiring 50% of the amount be banked in the beginning of the MOU is excessive. Mr. Drake continued to recommend that a specific amount be determined closer to when an MOU is drafted and felt it would be unfair to the Conservancy if the Committee provided a set amount today. Discussion ensued.

Mr. Abbors recommended the Committee review items 1 through 4 and defer items 5 and 6 to a future meeting as the goal of today’s Committee meeting is to give the Conservancy an opportunity to understand the minimum amount required in order to prevent the public having to pay for maintenance issues as they arise. The Committee agreed to defer items 5 and 6 to a future meeting.

Mr. Abbors further noted that Approach 1 has flexible language allowing for unknowns. Since items 5 and 6 are not being determined at this meeting, Approach 1 is the ideal approach to take. He stated that if fundraising site visits occur, District staff will need to escort the public and suggested striking the “no site visits” sentence from Approach 1 and include staff time. The Committee agreed to include 40 hours of staff time. Discussion ensued.

Mr. Abbors commented that the Committee can work out the specific amount of banked funds required for the MOU at a later time when items 5 and 6 are discussed by the full board. He recommended the Committee vote on Approach 1 with the “No site visits” language struck and the staff time from Approach 3 be included. Brief discussion ensued.

**Motion:** Director Hanko moved, and Director Kishimoto seconded a motion to approve Committee recommendation of Approach 1 with the modifications recommended by the General Manager.

VOTE: 3-0-0

Mr. Drake thanked the Committee and provided an update about the progress of the Conservancy.

### **Agenda Item #3 – Informational Items**

There were no informational items shared.

**VI. ADJOURNMENT**

The next LFPAC meeting was not scheduled.

Chair Hanko adjourned the Special Meeting of the Legislative, Funding and Public Affairs Committee at 3:56 p.m.

Teresa Gibson  
Public Affairs Administrative Assistant





Midpeninsula Regional  
Open Space District

Legislative, Funding and Public Affairs Committee  
October 8, 2013

## **SPECIAL MEETING**

### **LEGISLATIVE, FUNDING AND PUBLIC AFFAIRS COMMITTEE**

Administration Office  
330 Distel Circle  
Los Altos, CA 94022

## **APPROVED MINUTES\***

**October 8, 2013**

### **I. CALL TO ORDER**

Director Hanko called the Special Meeting of the Legislative, Funding and Public Affairs Committee (LFPAC) to order at 2:01 p.m.

### **II. ROLL CALL**

Members Present: Cecily Harris, Yoriko Kishimoto, and Nonette Hanko

Members Absent: None

Staff Present: Assistant General Manager Ana Ruiz, Assistant General Counsel Hilary Stevenson, Co-Acting Planning Manager Meredith Manning, Public Affairs Manager Shelly Lewis, Planner III Gina Coony, Real Property Specialist Elaina Cuzick, and District Clerk Jennifer Woodworth

### **III. ORAL COMMUNICATIONS**

None

### **IV. ADOPTION OF THE AGENDA**

**Motion:** Director Kishimoto moved, and Director Harris seconded a motion to adopt the agenda.

VOTE: 3-0-0

### **V. COMMITTEE BUSINESS**

**Agenda Item #1 – Approval of August 6, 2013 Minutes**

**Motion:** Director Harris moved, and Director Kishimoto seconded the motion to approve the minutes for the August 6, 2013 LFPAC meeting.

VOTE: 3-0-0

**Agenda Item #2 – Filling the Volunteer Ombudsperson Position**

Public Affairs Manager Shelly Lewis presented the staff report describing the Ombudsperson position and the process used to recruit for the position. Ms. Lewis then introduced the applicant Ms. Rosemary Field to the committee.

Director Hanko suggested the ombudsperson should be introduced to the District's neighbors and others who interact with the District.

Public Affairs Manager Lewis suggested that introduction of Ms. Field could be included in the District's quarterly newsletter.

Director Hanko asked Ms. Field to describe her work in Belmont in regards to working with those who neighbor public lands.

Ms. Field explained that visitors to public lands can be educated about avoiding encroachment onto private lands.

Public hearing opened at 2:12 p.m.

No speakers present.

Public hearing closed at 2:12 p.m.

**Motion:** Director Kishimoto moved, and Director Harris seconded a motion to accept the application of Rosemary Field for the District Ombudsperson position and forward a recommendation for approval to the Board of Directors.

VOTE: 3-0-0

**Agenda Item #3 – Partnership Guidelines for the Mount Umunhum Radar Tower**

Co-Acting Planning Manager Meredith Manning provided an update and explained that staff is returning to the committee with additional changes to the parameters governing partnerships with outside funding entities.

Director Harris inquired as to how the District will receive proof that 50% of the funds have been raised by partners.

Ms. Manning explained that the District may review various financial documents such as bank statements to determine the funds have been raised.

Assistant General Counsel Hilary Stevenson stated that it would be appropriate for the District to request copies of bank statements when Memorandum of Understanding negotiations begin.

Director Harris inquired as to the process if the balance of the funds is not raised by 2017.

Ms. Manning stated that in that event, staff will return to the LFPAC and/or Board of Directors to request and receive guidance, as appropriate.

Director Kishimoto inquired who is liable for unexpected maintenance costs prior to 2017 or when the full amount is raised.

Ms. Manning stated that the District will be financially responsible until a final agreement is reached. In the event extensive repair or maintenance is required, staff will return to the Board to report on the issue and request guidance.

Public hearing opened at 2:28 p.m.

Sam Drake of the Mt. Umunhum Conservancy spoke regarding the current limit of forty (40) hours of District staff time before reimbursement was required stating that he would prefer this requirement be more open-ended, in case the need arises for additional visits using an agreed upon rate and District would be reimbursed for staff time. Mr. Drake questioned whether \$125,000 was the correct amount of cash required to be on-hand prior to detailed negotiation stating that he believe the amount may be negotiated later in the process. Mr. Drake also commented on the sealing of the building requesting that access be maintained through at least one door. Finally, Mr. Drake requested the District reserve room for signage at the site which would allow for recognition of donors.

Ms. Coony explained that roof access will be maintained; however, all floors will be sealed except access to stairway due to Santa Clara County requirements. Additionally, staff evaluated other options and determined that the other options were prohibitively expensive due to County requirements for electricity and fire safety, which would be necessary to allow public occupancy of a building. The remote location of the radar tower site lacks infrastructure of any kind to support these requirements.

Director Hanko commented that the rate for reimbursement of staff time may be determined at a later date and also stated that the LFPAC will want to review any signs for the site.

Public hearing closed at 2:44 p.m.

**Motion:** Director Hanko moved, and Director Kishimoto seconded a motion to (1) define the minimum partner funding commitment for the long-term repair costs as including escalation costs to the year of construction as shown in Attachment A, including 50% of the construction costs (\$500,000) as a minimum requirement for the Board to consider a MOU; (2) define the minimum partner funding commitment for maintenance to include a period of forty years, including 50% of the twenty-year maintenance costs (\$125,000) as a minimum requirement for the Board to consider a MOU; and (3) confirm that minor maintenance is to be funded by the District until long-term construction is implemented, at which time all maintenance costs will be funded by a fundraising entity or outside partner (estimated timeframe: three to five years).

VOTE: 2-0-1 (Director Harris abstained)

**VI. ADJOURNMENT**

The next LFPAC meeting was not scheduled.

Chair Hanko adjourned the Regular Meeting of the Legislative, Funding and Public Affairs Committee at 2:45 p.m.

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Jennifer Woodworth  
District Clerk