



Midpeninsula Regional
Open Space District

February 26, 2014
Board Meeting 14-07

SPECIAL AND REGULAR MEETING

BOARD OF DIRECTORS MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

Administrative Office
330 Distel Circle
Los Altos, CA 94022

February 26, 2014

APPROVED MINUTES*

SPECIAL MEETING – CLOSED SESSION

I. CALL TO ORDER

Director Cyr called the Special Meeting of the Midpeninsula Regional Open Space District Board of Directors to order at 5:34 p.m.

II. ROLL CALL

Members Present: Jed Cyr, Nonette Hanco, Larry Hassett, Yoriko Kishimoto, and Curt Riffle

Members Absent: Cecily Harris and Pete Siemens

Staff Present: General Manager Steve Abbors and Assistant General Manager Kevin Woodhouse

III. CONFERENCE WITH LEGAL COUNSEL – PUBLIC EMPLOYEE PERFORMANCE EVALUATION. (Government Code Section 54957(b)(1))

Title of Employee: General Manager

The Board of Directors convened into Closed Session.

President Harris arrived at 5:37 p.m.

Vice President Siemens arrived at 5:41 p.m.

IV. ADJOURNMENT

President Harris adjourned the Special Meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 6:55 p.m.

REGULAR MEETING

*Approved by the Board of Directors on March 12, 2014

I. CALL TO ORDER

President Harris called the Regular Meeting of the Midpeninsula Regional Open Space District Board of Directors to order at 7:01 p.m.

II. ROLL CALL

Members Present: Jed Cyr, Nonette Hanco, Cecily Harris, Larry Hassett, Yoriko Kishimoto, Curt Riffle, and Pete Siemens

Members Absent: None

Staff Present: General Manager Steve Abbors, Assistant General Manager Ana Ruiz, Assistant General Manager Kevin Woodhouse, General Counsel Sheryl Schaffner, District Controller Mike Foster, Administrative Services Manager Kate Drayson, Senior Management Analyst Lynn Tottori, Natural Resources Manager Kirk Lenington, Acting Operations Manager Brian Malone, Public Affairs Manager Shelly Lewis, Co-Acting Planning Manager Tina Hugg, Co-Acting Planning Manager Meredith Manning, Real Property Manager Mike Williams, Real Property Specialist Elaina Cuzick, and District Clerk Jennifer Woodworth

III. REPORT OUT OF CLOSED SESSION

President Harris noted that there were no actions to report out of closed session.

IV. ORAL COMMUNICATIONS

Craig Britton expressed his support for the Board's decision at the previous Board meeting to acquire the Rogers Property and thanked the Board for their pursuit of the funding measure.

V. ADOPTION OF AGENDA

President Harris announced that Item 6 will be heard before the Consent Calendar.

Motion: Director Cyr moved, and Director Kishimoto seconded the motion to adopt the agenda as amended.

VOTE: 7-0-0

VI. CONSENT CALENDAR

The Board considered the Consent Calendar following Item 6.

**Agenda Item #1 – Approve Minutes of the Special and Regular Board Meetings
February 12, 2014**

Agenda Item #2 – Approve the Revised Claims Report

Agenda Item #3 – Authorization to Expend \$25,000 in Additional Monies for Legal Services by the Law Firm Shute, Mihaly & Weinberger LLP on the Lehigh Quarry California Environmental Quality Act Litigation, for a Total Authorized Amount of \$288,000 (R-14-42)

General Manager's Recommendation: Increase the authorization for the General Counsel for litigation services by Shute, Mihaly & Weinberger LLP, regarding the challenge to the County of Santa Clara's ("County") approval of the Environmental Impact Report ("EIR") on the Lehigh Permanente Quarry Reclamation Plan Amendment ("Project"), as follows:

Increase the total amount authorized by \$27,000 from the previously approved amount of \$263,000, to a total not to exceed amount of \$290,000 for unanticipated additional services relating to legal and subject-matter expert support of settlement efforts, coordination with fellow plaintiffs, air quality monitoring project work, disputes over the record preparation, late-arising case law, and other unanticipated issues of legal complexity.

Director Kishimoto expressed her concerns related to the escalating costs of the contract.

Agenda Item #4 – Authorization to Expend \$25,000 in Additional Monies for Legal Services by the Law Firm Shute, Mihaly & Weinberger LLP on the Preparation of an Amicus Brief in Support of the Appellant in the No Toxic Air Appeal in the Sixth District Court of Appeal and the Application that Accompanies it, for a Total Authorized Amount of \$54,000 (R-14-43)

General Manager's Recommendation: Increase the authorization for the General Counsel for litigation services by Shute, Mihaly & Weinberger LLP, regarding the pending appeal of the trial court's vested rights decision in *No Toxic Air, Inc. vs. Santa Clara County, et al.* ("No Toxic Air"), as follows:

Increase the total amount authorized by \$25,000 from the previously approved amount of \$32,000, to a total not to exceed amount of \$57,000.

Agenda Item #5 – Annual Dedication of Certain District Lands and Dedication Status Report (R-14-24)

General Manager's Recommendation: Adopt a resolution dedicating interests in certain specified District lands for public open space purposes.

Director Hanko commented on the importance of dedicated open space.

Motion: Director Hanko moved, and Director Cyr seconded the motion to approve the Consent Calendar as amended.

VOTE: 7-0-0

VII. BOARD BUSINESS

Agenda Item #6 – Adoption of Ordinance Calling and Election on June 3, 2014

This item was heard prior to the Consent Calendar.

General Manager Steve Abbors provided comments on the item summarizing the purpose of the funding measure to provide public access to District lands and stated that it will allow for more District constituents to enjoy the District's preserves.

Real Property Specialist Elaina Cuzick provided the staff report describing the actions previously taken by the Board to move the funding measure forward including the adoption of a Resolution of Necessity and introduction of the ordinance at the previous Board meeting. Ms. Cuzick summarized the key components of the ordinance, such as the date of the election, the tax rate statement, expenditure plan, and creation of an independent citizen's oversight committee. Finally, Ms. Cuzick read the title of the ordinance.

Public hearing opened at 7:15 p.m.

No speakers were present.

Public hearing closed at 7:15 p.m.

The members of the Board each expressed their enthusiastic support for the ballot measure moving forward and thanked District staff, the Peninsula Open Space Trust, and the members of the Citizen's Advisory Committee for their efforts on the Vision Plan and Capital Finance projects.

Motion: Director Kishimoto moved, and Director Hanco seconded the motion to waive reading, read by title only, and adopt an Ordinance Calling an Election and Ordering the Submission of a Proposition for Incurring Bonded Indebtedness of Not to Exceed \$300 Million for the Purpose of Providing Public Access and Acquiring, Restoring and Preserving Open Space throughout the District, to the Qualified Voters of the Midpeninsula Regional Open Space District at the General Municipal Election to be Held on June 3, 2014.

VOTE: 7-0-0

President Harris called a ten minute recess at 7:28 p.m.

The Board reconvened at 7:43 p.m. with all Directors present.

Following action on Item 6, the Board took up consideration of the Consent Calendar.

Agenda Item #7A – Controller's Report on the Proposed Fiscal Year 2014-15 Budget (R-14-40)

District Controller Mike Foster provided the Controller's report summarizing the estimated projected tax revenue growth for FY2014-15. He stated that the status of former Redevelopment Agency revenue remains unclear going forward, described the status of the District's debt service, and outlined the budgeted operating expenses for the next fiscal year as a percentage of the District's tax revenue.

Public hearing opened at 7:52 p.m.

No speakers were present.

Public hearing closed at 7:52 p.m.

The Board accepted the Controller's Report, and no action was required.

Agenda Item #7B – Initial Presentation of the Proposed Midpeninsula Regional Open Space District Action Plan for Fiscal Year 2014-15 (R-14-38)

Director Kishimoto, Chair of the Action Plan and Budget Committee, describing the discussions held at the Committee meetings, including allowing Board members to discuss additions to the Action Plan at the annual retreat in the fall and potentially modifying the District's fiscal year.

The District department managers provided brief summaries of their department's Priority 1 projects included in the FY2014-15 District-wide Action Plan as outlined in the Board report and highlighted other important projects in each of the departmental Action Plans.

Board discussion ensued, and the Directors provided comments on the proposed projects included in the FY2014-15 Action Plan.

Public hearing opened at 8:37 p.m.

No speakers were present.

Public hearing closed at 8:37 p.m.

The Board accepted the proposed FY2014-15 Action Plan, and no action was required.

Agenda Item #7C - Initial Review of the District's Proposed Budget for Fiscal Year 2014-15 (R-14-39)

Senior Management Analyst Lynn Tottori presented the staff report on the FY2014-15 proposed budget. Ms. Tottori provided an overview of the FY2014-15 District Budget including the proposed budget guidelines, proposed total expenditures, and proposed staffing additions.

Ms. Tottori explained that the District remains under the 10.5% capital expenditure guideline, currently at 7.9%, and provided highlights from the capital expenditures, including El Corte de Madera watershed protection, La Honda Creek OSP grazing infrastructure, and Mindego grazing infrastructure.

Ms. Tottori outlined the proposed FY2014-15 budget, endowment/fund balance, and development of future partners for the site.

Public hearing opened at 9:07 p.m.

No speakers were present.

Public hearing closed at 9:07 p.m.

The Board accepted the proposed FY2014-15 Budget, and no action was required.

VIII. INFORMATION ONLY ITEMS

- Harkins Bridge Project Update
- Hawthorns Historic Complex at Windy Hill Open Space Preserve
- Work Estimates for the Integrated Pest Management Program
- Update on Proposed Skyline Field Office Health, Safety and Operational Improvements
- Annual Deer Surveys

IX. COMMITTEE REPORTS

Director Cyr reported that the Planning & Natural Resources Committee last week.

X. STAFF REPORTS

Assistant General Manager Ana Ruiz commented on the new interactive Vision Plan map highlighting the Top Tier projects on the District's website.

General Manager Steve Abbors reported that he and the District Controller provided a presentation to the Silicon Valley Leadership Group.

XI. DIRECTOR REPORTS

Directors Cyr and Hassett reported that they attended the Cooley Landing event and Ethnic Media luncheon.

Director Cyr reported that the *Sunnyvale Sun* had an article about the funding measure in last week's issue and provided copies of the article to the Board members and staff.

Directors Siemens and Kishimoto reported that they also attended the Ethnic Media Luncheon.

Director Siemens reported that he and other members of District staff toured Mt. Umunhum with members of Los Gatos Town staff.

The Board submitted their compensatory forms to the District Clerk.

XII. ADJOURNMENT

President Harris adjourned the Special Meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 9:23 p.m.

Jennifer Woodworth, CMC
District Clerk