



Midpeninsula Regional
Open Space District

August 13, 2014
Board Meeting 14-21

REGULAR MEETING

BOARD OF DIRECTORS MIDPENINSULA REGIONAL OPEN SPACE DISTRICT

Administrative Office – Board Room
330 Distel Circle
Los Altos, CA 94022

August 13, 2014

APPROVED MINUTES*

I. CALL TO ORDER

President Harris called the Regular Meeting of the Midpeninsula Regional Open Space District Board of Directors to order at 7:00 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 Kevin Woodhouse, General Counsel Sheryl Schaffner, Natural Resources Manager Kirk Lenington, Planner III Matt Baldzikowski, Acting Operations Manager Michael Newburn, Contingent Project Manager Aaron Hébert, Planning Manager Jane Mark, Project Manager Gina Coony, Public Affairs Manager Shelly Lewis, Volunteer Programs Manager Paul McKowan, Real Property Manager Mike Williams, Administrative Services Manager Kate Drayson, and District Clerk Jennifer Woodworth

III. ORAL COMMUNICATIONS

Kathy Helgerson spoke in favor of cleaning up Stevens Creek Park stating it is polluted and in disrepair.

IV. ADOPTION OF AGENDA

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

VOTE: 7-0-0

V. SPECIAL ORDER OF THE DAY

Public Affairs Manager Shelly Lewis introduced Public Affairs Administrative Assistant Jenny Gibbons.

VI. CONSENT CALENDAR

Director Hassett requested Item 4 be pulled from the Consent Calendar and heard at the end of the Board Business portion of the agenda.

Director Hanko pulled Item 2 from the Consent Calendar.

Director Kishimoto pulled Item 5 from the Consent Calendar following public comments on the Consent Calendar.

Motion: Director Kishimoto moved, and Director Hanko seconded the motion to approve the Consent Calendar as modified with the exception of Items 2, 4 and 5.

VOTE: 7-0-0

The Board considered pulled Consent Calendar Item 4 following Item 6.

- 1. Approve Minutes of the Regular Board Meeting of July 23, 2014.**
- 2. Approve the Claims Report**

Item 2 was heard after approval of the Consent Calendar.

Director Hanko recused herself and left the room at 7:20 p.m.

Motion: Director Riffle moved, and Director Siemens seconded the motion to approve the check numbers 67177, 67152, 67231, 67318, 67337, 67274, and any other line items related to Verizon, AT&T, and PG&E on the claims report.

VOTE: 6-0-0 (Director Hanko recused)

Director Hanko returned to the dais at 7:22 p.m.

Motion: Director Cyr moved, and Director Riffle seconded the motion to approve the claims reports with the exception of check numbers 67177, 67152, 67231, 67318, 67337, 67274, and any other line items related to Verizon, AT&T, and PG&E.

VOTE: 7-0-0

- 3. Written Communication to R. Sundahl**

Director Kishimoto suggested that the draft response be modified to read, "...a large scale proposal would likely not be consistent with the District's mission, objectives and current policies."

4. Contract for the Administrative Office Mansard Roof Replacement Project (R-14-102)

Director Hassett inquired regarding the process for choosing the vendor.

Planner III Gina Coony explained the use of the base bid is the legal criteria for selecting the low bid.

Motion: Director Riffle moved, Director Cyr seconded the motion to:

1. Authorize the General Manager to enter into a contract with Barrera's Builders, of Castro Valley, CA, for an amount not-to-exceed \$56,613.22, which includes the contract price of \$47,177.22 to replace the mansard roof shingles on the Administrative Office building, a 15% allowance of \$7,076.00 to cover anticipated wood framing replacement, and a 5% contingency amount of \$2,360.00 to cover unanticipated additional repairs.
2. Determine that the proposed project is categorically exempt from the California Environmental Quality Act, as set out in the staff report.

VOTE: 7-0-0

Following action on Item 4, the Board resumed the regular order of the agenda at Item 7.

5. Contract for Completion of the McDonald and Sherrill Remediation and Demolition Projects at La Honda Creek Open Space Preserve and Monte Bello Open Space Preserve (R-14-104)

Public hearing opened at 7:13 p.m.

Doniga Markegard, current grazing tenant at McDonald Ranch, urged the Board consider approving application for a farm worker house permit in conjunction with the demolition permit for proposed demolition at the McDonald Ranch.

Public hearing closed at 7:18 p.m.

Director Kishimoto pulled Item 5 from the Consent Calendar. Item 5 was heard following action on Item 2.

Public hearing opened at 7:24 p.m.

Ryan Borich, a business owner from Half Moon Bay, inquired if Board has ever considered reclamation instead of demolition of District buildings.

Gina Coony, Planner III, commented that staff has sought reclamation contractors for previous projects. The problem she encountered previously is that many contractors did not pay prevailing wages nor did they meet the District's insurance requirements. She stated that she will collect Mr. Borich's contact information for future bid notices.

Public hearing closed at 7:29 p.m.

General Manager Steve Abbors and Contingent Project Manager Aaron Hébert commented on the extensive procedure used by staff to notify interested parties, contractors, and members of the public regarding the project and request bids for the project.

Director Hanko expressed her concerns regarding removal of the current bat habitat by demolishing the McDonald Ranch house stating that the bats currently living there may not relocate to the nearby Red Barn if the structure is demolished.

Mr. Hébert provided information on research completed by the District's bat consultant and recommendations made by the consultant regarding best practices for demolition of the structure to protect the bat species living there.

Natural Resources Manager Kirk Lenington commented that the bats living in the Red Barn were studied previously and found that the habitat was not near capacity.

Director Riffle inquired as to the progress of the construction and demolition policy.

Mr. Hébert responded that staff is working on the construction and demolition policy and until it is adopted, staff has augmented its bid package to address recycling, reclamation, and salvage.

Director Riffle inquired about the possibility of exploring Ms. Markegard's suggestion of farm worker housing.

Real Property Manager Mike Williams commented on the state of the McDonald structure stating that its current condition is irreparable. Demolition of the structure does not preclude future Board decisions to explore farm worker housing or other infrastructure buildings at the site.

The Board directed staff to return at a future Board meeting with information regarding farm worker housing and an update on the construction and demolition policy.

Motion: Director Hassett moved, and Director Hanko seconded the motion to:

1. Authorize the General Manager to enter into a contract with Asbestos Management Group of California, Inc. of Oakland, CA, for a not-to-exceed amount of \$114,454, which includes the base bid amount of \$99,525 for demolition, and a 15% contingency amount of \$14,929 to complete the McDonald and Sherrill Remediation and Demolition Projects at La Honda Creek Open Space Preserve and Monte Bello Open Space Preserve.
2. Determine the recommended actions on the Sherrill Remediation and Demolition Project are categorically exempt from the California Environmental Quality Act, as set out in the staff report.

VOTE: 7-0-0

VII. BOARD BUSINESS

6. Accept Two Trail Easements, Two Rights of First Offer and Rights of First Refusal, and a Conditional Grant Deed conveyance, to properties adjacent to Monte Bello and

Rancho San Antonio Open Space Preserves, located in the City of Palo Alto and unincorporated Santa Clara County (Portions of Santa Clara County Assessor's Parcel Numbers 351-09-003, 351-09-023, 351-09-025, 351-10-037 & 351-12-067); and Bi-annual public meetings with Lehigh; all in Exchange for Dismissal of Appeal in *Midpeninsula Regional Open Space District v. County of Santa Clara et al*, Court of Appeal Case No. H040839 (Lehigh EIR challenge); Adoption of Related Preliminary Use and Management Plan; and Approval of a Categorical Exemption in accordance with the California Environmental Quality Act (R-14-98)

General Counsel Sheryl Schaffner provided the staff report outlining the public benefits received in exchange for settlement of the District's lawsuit against the County of Santa Clara regarding the county's approval Lehigh Quarry's Reclamation Plan Environmental Impact Report. Ms. Schaffner summarized the history of Midpen's litigation as well as litigation pursued by other agencies. Ms. Schaffner summarized the settlement terms and conditions proposed for approval by the Board of Directors. Finally, Ms. Schaffner explained the options before the Board for consideration this evening.

The Board members asked various questions to clarify the proposed terms and conditions of the settlement terms and conditions.

Public hearing opened at 8:46 p.m.

Tim Brand, resident of Cupertino, spoke against the East Materials Storage Area and the proposed settlement terms and conditions.

Karen del Campara, resident of Cupertino, spoke regarding Lehigh Quarry's past actions, pollution at the East Materials Storage Area and surrounding areas, and the current Lehigh Cement Plant.

Kathy Helgerson spoke against the proposed settlement terms and conditions and urged litigation regarding the Lehigh Cement Plant.

Leslie Fowler spoke regarding pollution she has experienced at the Rancho San Antonio Open Space Preserve.

Barry Chang, Cupertino City Councilmember and President of the Board for Bay Area for a Clean Environment but speaking for himself, thanked the District for their work in the lawsuit and spoke against Lehigh Quarry.

Public hearing closed at 9:01 p.m.

Director Hassett inquired if any safeguards existed to protect the District from accepting the 55-acre parcel if it is heavily polluted.

Mr. Abbors explained that the property would be examined before the District considers acceptance, nor do any of the settlement terms and conditions preclude the Board from taking future actions against Lehigh if deemed necessary by the Board.

Director Hassett inquired why Lehigh Cement Plant was not included in negotiations.

Ms. Schaffner explained that the Lehigh Cement Plant was not included in the Environmental Impact Report or litigation, and Lehigh was not interested in negotiating regarding the Cement Plant.

Director Kishimoto inquired regarding the metrics being used to monitor whether the East Materials Storage Area has increased in size.

Planner III Matt Baldzikowski described the various metrics which will be used to monitor the size of the East Materials Storage Area.

The Board members thanked staff for their efforts both study and monitor the area and negotiate the terms and conditions of the settlement.

Motion: Director Kishimoto moved, and Director Siemens seconded the motion to:

1. Adopt a Resolution authorizing acceptance of the following property rights conveyances from Lehigh:
 - A. Amend Grant of Trail Easement to widen existing Quarry Trail from 20 to 200 feet;
 - B. New Public Trail Easement to Monte Bello Open Space Preserve;
 - C. Rights of First Offer and Rights of First Refusal to two properties adjacent to Rancho San Antonio Open Space Preserve totaling 265 acres;
 - D. Conditional Grant Deed to one property adjacent to San Antonio Open Space Preserve.
2. Adopt a Preliminary Use and Management Plan for the property as contained in the staff report.
3. Indicate the Board's intention to dedicate the Quarry Trail, and defer dedication of the new trail easement until it is complete.
4. Approve settlement and dismissal of the pending litigation on the terms outlined in the staff report.
5. Determine that the recommended actions are categorically exempt from the California Environmental Quality Act (CEQA) as set out in the staff report.

VOTE: 7-0-0

The Board recessed at 9:27 p.m. and reconvened at 9:39 p.m. with all members present.

7. Discussion of Criteria for Inclusion on District Volunteer Memorial Signs (R-14-108)

Ms. Schaffner provided the staff report summarizing the actions taken at the last Board meeting.

Public hearing opened at 9:59 p.m.

Brandon Kwan spoke in favor the Board reaching a compromise regarding the issue, stating that some volunteers may serve the District for only five years but contribute much to the District. Those individuals could be considered for inclusion on a case by case basis. Mr. Kwan also suggested the District take donations to pay for the upkeep of the signs.

Public hearing closed at 10:03 p.m.

The Board discussed the various criteria for inclusion on the District Volunteer Memorial Signs.

Motion: Director Hanko moved, and Director Kishimoto seconded the motion to approve the criteria of including memorializing deceased volunteers and docents who have provided a significant contribution to the District and have volunteered for at least 10 years and provided 250 hours of volunteer service with a provision that the General Manager can make exceptions in extraordinary cases.

VOTE: 4-3-0 (Directors Hassett, Cyr, and Siemens opposed)

8. Approval of Response to San Mateo County Civil Grand Jury Report dated May 19, 2014 Regarding Website Transparency (R-14-101)

District Clerk Jennifer Woodworth provided the staff report summarizing the San Mateo Civil Grand Jury's report and the District's response to the report.

Public hearing opened at 10:22 p.m.

No speakers present.

Public hearing closed at 10:22 p.m.

Motion: Director Siemens moved, and Director Kishimoto seconded the motion to approve and authorize the President of the Board of Directors to execute the proposed response to the San Mateo County Civil Grand Jury's report of May 19, 2014 regarding special district website transparency.

VOTE: 7-0-0

VIII. COMMITTEE REPORTS

Director Riffle reported that the Capital Finance Ad Hoc Committee met to discuss the process for implementing Measure AA.

IX. STAFF REPORTS

General Manager Steve Abbors commended General Counsel Sheryl Schaffner and Real Property Manager Mike Williams for their efforts related to negotiating the terms and conditions for the Lehigh settlement.

X. DIRECTOR REPORTS

The Board submitted their compensatory forms to the District Clerk.

Director Riffle reported that he will be attending the Pescadero Arts and Fun Festival with members of District staff and docents.

Director Cyr reported that he recently hiked at Pescadero Marsh.

Director Hassett provided comments on South Skyline Association's recently published book *The South Skyline Story*.

XI. ADJOURNMENT

President Harris adjourned the regular meeting of the Board of Directors of the Midpeninsula Regional Open Space District at 10:32 p.m.

Jennifer Woodworth, CMC
District Clerk