

SONOMA COUNTY OPEN SPACE FISCAL OVERSIGHT COMMISSION

COMMISSIONERS

Mike Sangiacomo (Sonoma)
Todd Mendoza (Petaluma)
Dee Swanhuysen (Sebastopol)

Bob Anderson (Healdsburg)
Eric Koenigshofer (Occidental)
Jeff Owen (Alternate)

Regular Meeting

747 Mendocino Avenue – Suite 100, Santa Rosa, CA 95401

November 12, 2015 4:00 pm

AGENDA

1. **Call to Order.**
2. **Agenda Items to be Held or Taken Out of Order; Off-Agenda Items.**
3. **General Announcements Not Requiring Deliberation or Decision.**
4. **Public Comment.**
The Brown Act requires that time be set aside for public comment on items not agendized.
5. **Correspondence/Communication.**
6. **Approval of Commission Minutes.**
October 29, 2015 [Attachment 1]
7. **Ad Hoc Committee Reports.**
 - Annual Report/Audit Report Review (Anderson, Swanhuysen) – no scheduled meetings
 - Investment (Swanhuysen, Owen) – no scheduled meetings
 - Review of County Services (Mendoza, Koenigshofer) – no scheduled meetings
 - Stewardship (Mendoza, Sangiacomo) – November 2, 2015
 - Operation & Maintenance Transaction Review (Anderson, Koenigshofer) – no scheduled meetings
 - Matching Grant Program (Koenigshofer, Owen) – no scheduled meetings
 - Management Review Recommendations (Koenigshofer, Anderson) – no scheduled meetings
8. **Initial Public Access Operation and Maintenance Policy.** [Attachment 2]
9. **Sebastopol Skategarden Expansion Matching Grant.** [Attachment 3]
10. **Closed Session.**
Conference with Real Property Manager [Attachment 4]
Property: Estero Ranch
Address: 200 Estero Lane, Bodega 94923
APN: 100-160-002

Owner: Wells Fargo Bank, N.A. Successor Trustee of the George Bottarini and Scotty L. Bottarini Revocable Intervivos Trust known and designated as the Bypass Trust.

Negotiating Parties:

Owner's representative: Kyle Orloff, Trust Asset Manager, Wells Fargo Bank, N.A.
Sonoma Land Trust's representative: Amy Chestnut, Acquisition Director
The Wildlands Conservancy representative: Dan York, Vice President
District's representative: William J. Keene, General Manager

Under Negotiation

Acquisition of Interest in Real Property by the Open Space District. The Commission will give instruction to its negotiator(s) on the price. (*Government Code Section 54956.8*).

11. **Suggested Next Meeting.** **December 3, 2015**

12. **Adjournment.**

In compliance with Government Code §54954.2(a), the Sonoma County Open Space Fiscal Oversight Commission will, on request, make this agenda available in appropriate alternative formats to persons with a disability, as required by Section 202 of the ADA of 1990 (42 U.S.C. §12132), and the Federal rules and regulations adopted in implementation thereof. Individuals who need this agenda in another format or need a disability-related modification or accommodation should contact Sue Jackson at 707.565.7346 at least 72 hours prior to the meeting to ensure arrangements for accommodation. Pursuant to Government Code § 54957.5, a copy of all documents related to an item on this agenda submitted to the Fiscal Oversight Commission may be obtained from the Fiscal Oversight Commission office, 747 Mendocino Avenue, Santa Rosa, CA 95401.

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UNAPPROVED

Minutes for Meeting of October 29, 2015

Commissioners Present: Koenigshofer (Chair), Anderson (Vice Chair), Mendoza (Chair Pro Tem), Owen (Alternate).

Staff Present: Bill Keene, General Manager; Sheri Emerson, Program Manager – Stewardship; Kathleen Marsh, Stewardship Coordinator; Sue Gallagher, Counsel; Christine Minkel, Administrative Aide to the Commission, Sue Jackson, Deputy Clerk/Recorder-Fiscal Oversight Commission.

Also Present: Bert Whitaker, Park Manager, Sonoma County Regional Parks

1. **Call to Order.**

Commissioner Koenigshofer called the meeting to order at 5:04 pm.

2. **Agenda Items to be Held or Taken Out of Order; Off Agenda Items.**

Staff requested that Item 8 (Initial Public Access Operation and Maintenance Discussion) be heard after Item 6 (Approval of Committee Reports).

3. **General Announcements Not Requiring Deliberation or Decision.**

There were none.

4. **Public Comment.**

There was none.

5. **Correspondence/Communication.**

There was none.

6. **Approval of Commission Minutes.**

On a motion by Commissioner Anderson and second by Commissioner Mendoza, the minutes of September 10, 2015 were approved (with one typographical correction) as submitted.

7. **Ad Hoc Committee Reports.**

- **Annual Report/Audit Report Review** (Anderson, Swanhuysen)
Commissioner Anderson reported that the committee completed its review of the Maze & Associates report on Applying Agreed Upon Procedures for the District's FY 14/15 Initial Public Access, Operation and Maintenance Transactions. The report found that the expenditures appeared to be in compliance with the Measure F expenditure plan and that the transfer agreements and expenditures appeared to be in agreement with the 2007 and 2013 policies.
- **Investment** (Swanhuysen, Owen) – Nothing to report
- **Review of County Services** (Mendoza, Koenigshofer)
Commissioner Koenigshofer reported that the committee met on October 29, 2015, immediately prior to the regular meeting and will be prepared to report to the Commission at a future meeting.
- **Stewardship** (Mendoza, Sangiacomo) – Scheduled to meet on November 2, 2015. Nothing to report at this time.
- **Operation and Maintenance Transaction Review** (Anderson, Koenigshofer) – Nothing to report.
- **Matching Grant Program** (Koenigshofer, Owen) – Nothing to report.
- **Management Review Recommendations** (Koenigshofer, Anderson) – Nothing to report.

8. **Initial Public Access Operation and Maintenance Policy Discussion (IPAOM).**

Ms. Emerson presented a final draft of the IPAOM policy that was based on and included revisions recommended by the Commission at its previous reviews:

- Sequencing of past actions under "Whereas" was revised.
- Section B (Administration) Item 2 (Qualified Expenses) is more specific in its definition of eligible expenditures with an emphasis on the quality of improvements and safety.

The Commission requested slight changes in the verbiage to further clarify the intent of the policy.

Mr. Whitaker, on behalf of Regional Parks, said that the department was pleased with the progress that has been made. With respect to Section B (Administration) Item 2 (Qualified Expenses) he noted that "low-impact, low-cost improvements, and programs, including necessary improvements that facilitate safe initial public access while protecting

conservation values” will require different upfront costs, and are dependent on the circumstances of a project. He noted also the term, “natural surface trails” is difficult to define, as it is not an industry-standard term.

9. **Suggested Next Meeting.** November 12, 2015

10. **Adjournment.**

Commissioner Koenigshofer adjourned the meeting at 6:08 pm.

Respectfully submitted,

Sue Jackson
Deputy Clerk



DATE: November 5, 2015 (Meeting November 12, 2015)

TO: Fiscal Oversight Commissioners

FROM: Sheri J. Emerson, Stewardship Program Manager

SUBJECT: Draft Initial Public Access, Operation and Maintenance Policy

Your Commission reviewed and provided additional comments on the draft Initial Public Access, Operation and Maintenance Policy at your October 29, 2015 meeting. The revised draft is attached for your review and consideration at your November 12 meeting.

Please review this draft resolution in anticipation of approving it to move forward to the District Board of Directors for their consideration in December.

DRAFT IPAOM POLICY UPDATE FOR 2015

Date: _____ Item Number: _____
Resolution Number: _____

4/5 Vote Required

Resolution of the Board of Directors of the Sonoma County Agricultural Preservation and Open Space District, Updating the District’s Initial Public Access, and Operation and Maintenance Policy

Whereas, in November of 2006, the voters of Sonoma County approved Measure F (*Sonoma County Open Space, Clean Water, and Farmland Protection Measure*) extending the District’s funding for an additional twenty years. Measure F included an Expenditure Plan, which governs the District’s expenditure of tax revenues, and which became effective upon voter approval (“2006 Expenditure Plan”); and

Whereas, the Expenditure Plan authorized the use of sales tax revenues towards the protection of five listed open space designations:

1. Community separators and greenbelts;
2. Scenic landscape units and scenic corridors;
3. Agriculturally productive lands;
4. Biotic habitat areas, riparian corridors; and other areas of biotic significance, and
5. Other open space projects; and

Whereas, the Expenditure Plan provides that the protection of these agricultural lands and open space “will be accomplished primarily through the purchase of development rights from willing sellers” and may include the purchase of “fee interests for outdoor public recreation where the public use would not be inconsistent with the open space designations...”; and

Whereas, in its Paragraph 6, the Expenditure Plan also allows for funding towards “operation and maintenance of land”:

"Operation and maintenance of land includes limited funding for initial public access, operation and maintenance of recreational lands purchased in accordance with this Plan. No more than 10 percent of total revenues generated over the life of the Measure shall be made available for operation and maintenance purposes."; and

Whereas, in 2007, the Board adopted Resolution No. 07-0666, which approved a policy proposed by the previous General Manager for budgeting funds under Paragraph 6 for

Resolution #

Date:

Page 2

operation and maintenance; and

Whereas, pursuant to Resolution No. 07-0666, the District established an Initial Public Access, Operation and Maintenance Fund (IPAOM Fund), which continues to be maintained by the District and expended in accordance with the approved policy, as subsequently amended; and

Whereas, Resolution No. 07-0666 directed the General Manager to periodically review the policy and recommend any needed changes arising from changed circumstances; and

Whereas, in 2013, the General Manager reviewed the policy and recommended certain clarifications, which the Board approved through its adoption of Resolution 13-0410, thereby setting forth additional details regarding eligible expenditures under Paragraph 6 of the Expenditure Plan; and

Whereas, the General Manager has now recommended that Resolutions No. 07-0666 and 13-0410 be updated and replaced in order to consolidate and further clarify the District's policy on the expenditure of funds for initial public access and operations and maintenance (IPAOM Policy); and

Whereas, as it did in 2013, this Board finds that the plain language of Paragraph 6 of the 2006 Expenditure Plan authorizes the following expenditures of tax revenues:

1. Payments to entities acquiring District-protected recreational lands (both lands previously owned in fee by the District and lands protected by a District-held easement), for the purposes of funding operation and maintenance costs that support initial public access;
2. Costs related to resource management and infrastructure maintenance on District-owned recreational lands during the interim land management period prior to property transfer to a receiving recreational entity;
3. Costs to provide interim access or permit programs, public outings and educational programs on District-protected recreational lands not currently open to the general public;
4. Capital improvements to provide initial public access on District-protected recreational lands; and

Whereas, as it did in 2013, this Board further finds that Paragraph 6 also authorizes expenditures for District staff and legal costs related to all of the above; and

Whereas, to preserve open space and ensure fiscal responsibility, the District supports a low-impact, low-cost approach to recreational improvements and operations, providing safe and high quality recreational opportunities on District-protected recreational lands in a manner consistent with preservation of natural resources, scenic and agricultural values where identified for a particular property; and

Whereas, limiting District funding of recreational improvements to those that are necessary to provide initial public access (including the cost of preliminary planning for and the initial operation and maintenance of those improvements), will help to minimize the impact to the environment and reduce long term maintenance and operational costs. This approach also allows for prudent use of revenues over the life of the Measure F; and

Whereas, Paragraph 6 was intended to provide limited expenditures to assist in “jump starting” some level of initial public access and land maintenance on recreational lands purchased with Measure F funds, and was not intended to fund on-going park operations.

Now, therefore, be it resolved that with respect to expenditures of Measure F sales tax revenues under Paragraph 6 of the 2006 Expenditure Plan, the policy of the District shall be as follows:

A. Eligible Expenditures

The following expenditures shall be eligible for reimbursement under Paragraph 6 of the Expenditure Plan, in accordance with the provisions of this policy. All such expenditures shall be subject to and included within the 10 percent cap on operations and maintenance expenditures established by Paragraph 6. All such expenditures shall be subject to annual review and audit.

1. Payments to Recreational Partners

Payments to entities acquiring a District-protected recreational land, for the purposes of funding operation and maintenance costs that support initial public access. These payments may be for a period not to exceed three years from the date of acquisition by the receiving entity, unless extraordinary circumstances can be demonstrated. Payments shall be made on a reimbursement basis pursuant to a written agreement between the District and the owner of the recreational land and approved by District Counsel. The written agreement shall include an approved workplan and shall be consistent with the terms of a conservation easement held by the District, and to the provisions of a recreational covenant, if required.

2. Recreational Lands Management Costs

Expenditures related to resource management and infrastructure maintenance on District-owned lands intended for recreational use, including District staff and consultant time, materials and supplies, and legal costs.

3. Interim Access, Permit, and Outings Costs

Expenditures to provide interim access or permit programs, public outings, and educational programs on District-protected recreational lands protected by the

District but not currently open to the general public, including District staff and consultant time, materials and supplies, and legal costs.

4. Capital Improvements

Expenditures for capital improvements, including District staff and consultant time, materials and supplies, and legal costs, and/or payments to recreational entities acquiring District-protected recreational land, where those improvements are necessary for initial public access. Where IPAOM funds are provided to another entity, the expenditure is subject to the same requirements outlined above for Payments to Recreational Partners.

B. Administration

1. Budget Process

As part of the District's budgeting process, the General Manager shall recommend an allocation for the IPAOM Fund to allow for reimbursement to recreational partners and the District, for qualified expenditures as defined below, within the cumulative 10 percent cap of the Measure F sales tax revenue received to date. IPAOM funding proposals from entities other than the District will be reviewed by the Fiscal Oversight Commission and approved by the Board of Directors prior to reimbursement. District expenditures of IPAOM funds will be reviewed by the Fiscal Oversight Commission on an annual basis, as described below.

2. Qualified Expenditures

Qualified expenditures include necessary improvements and operational costs that facilitate safe initial public access while protecting conservation values. Examples of necessary improvements include basic recreational amenities such as natural surface multi-use trails, unpaved parking areas, fencing, gates, related signage, and portable or temporary restroom facilities. Costs of preliminary planning for, and operation and maintenance of, necessary improvements are included. Costs associated with obtaining necessary regulatory approvals and access agreements are also included. Costs of providing universal access opportunities may be included as part of initial public access where appropriate and in accordance with law.

Qualified expenditures do not include off-site road work or major internal road work (turn lanes, ingress road upgrades or realignments), major water or sewer infrastructure improvements, overnight accommodations (huts, hotels, yurts, cabins, tent pads), or more developed recreational amenities (play structures, covered picnic areas). On occasion, there may be extraordinary circumstances that would justify a contribution towards improvements that are otherwise not included in this policy but are necessary to provide initial public access. These may be approved on a case by case basis by the Board of Directors after staff recommendation and Fiscal Oversight Commission review. The intent of this policy is for IPAOM funds to be used for qualified expenses.

3. Annual Review

Reimbursements from the IPAOM Fund to the District and to other entities will be reviewed at the end of each fiscal year by the Fiscal Oversight Commission, in accordance with Sonoma County Board of Supervisors Resolution 10-0832, to confirm that expenditures are consistent with the Expenditure Plan.

4. Cap on Total Expenditures

Total allocations for initial public access, operation and maintenance shall not, cumulatively, exceed 10 percent of the special tax revenues of the District to the date of the allocation.

5. Reallocation of Funds

Funds deposited into the District's IPAOM Fund are not irrevocably committed. The Board of Directors retains the authority to re-allocate funds from the IPAOM Fund for other purposes eligible under Measure F as it deems appropriate; and

Be it further resolved that, the General Manager is directed to periodically review this policy and recommend any changes arising from changed circumstances; and

Be it further resolved that this Resolution supersedes and replaces both Resolution No. 07-0666 and Resolution No. 13-041.

Directors:

Rabbitt:

Zane:

Gore:

Carrillo:

Gorin:

Ayes:

Noes:

Absent:

Abstain:

So Ordered.



DATE: November 6, 2015 (Meeting November 12, 2015)

TO: Fiscal Oversight Commissioners

FROM: Jennifer Kuszmar, Matching Grant Coordinator

SUBJECT: Sebastopol Skategarden Expansion Matching Grant Project

Summary

The Sebastopol Skategarden Expansion Matching Grant Project will develop 0.5 acres of public open space adjacent to the existing skate park and community gardens in Sebastopol. The expansion project, once completed, will increase the protected park land by 30% in this highly urbanized area in Sebastopol. The low-intensity nature of the expansion will provide additional green space for residents and visitors to recreate and will serve the needs of a broad spectrum of users.

The Conservation Easement over the existing Skategarden Park will be amended to include the additional 0.5 acre parcels. Additionally, a Recreation Conservation Covenant will be placed over the entire 1.5-acre property.

Background

Through the Matching Grant Program, the District has worked with the City of Sebastopol to provide urban open space and recreational opportunities within the city limits of Sebastopol. The District has funded two Matching Grant Projects related to the Sebastopol Skategarden, and approved a third as part of the 2014 Program cycle.

The first Matching Grant Project was awarded in 2004 for acquisition, and another in 2008 for development of a one-acre skate park and community garden – Skategarden Park – on Laguna Park Way in Sebastopol. The District provided the City with \$654,575 in funding for these two Matching Grant Projects. As part of the 2004 Matching Grant Project, the District acquired a Conservation Easement over the Skategarden parcel. Both projects are completed and the District’s grant and the City’s match funding have been expended.

The existing Skategarden Park opened in 2008 and has both a state-of-the-art skate structure and a community garden area. It is one of the most intensively used parks in Sebastopol, drawing skaters from Sebastopol and West Sonoma County, and points beyond. The site is located in a fully-urbanized area of Sebastopol, across from The Barlow development. Several

local schools, including Analy High, Laguna High, Sebastopol Independent Charter, and Park Side Elementary are within walking distance of the site.

In 2008, the City purchased an adjacent 0.5 acres with frontage onto Flynn Street with the intention to enhance community park resources by expanding the existing park. The City applied to the District's 2014 Matching Grant Program for \$381,853 in funding to develop the expansion parcel for low-intensity public recreation opportunities. The project was accepted by the Citizens Advisory Committee on August 28, 2014, and was approved by the District's Board of Directors on October 14, 2014, subject to the negotiation and execution of a Matching Grant Agreement.

Sebastopol Skategarden Expansion Matching Grant Project

The City's 2014 Matching Grant Project is for the development of the adjacent half-acre parcel acquired by the City as a public park for low-intensity uses that are compatible with the existing Skategarden Park. Improvements will include benches, pathways, landscaping, picnic and grassy areas, and upgraded access at the entry on Flynn Street. The improvements at the expansion site will provide for a different park experience than that found at the existing park and will provide recreation opportunities for a broad segment of the community. The project will protect the existing native oak and willow trees and will limit impervious surfaces in order to provide green space within a highly urbanized area of Sebastopol. The expansion site is currently vacant and unused, as it has been for a number of years.

After purchasing the expansion property in 2008, the City engaged in a multi-year public design process for the existing Skategarden Park as well as the expansion site. Capacity and funding limitations during the economic crisis prohibited the City from developing the project until now. With the economic outlook improving, the City has reinstated the project. This past year, the City solicited additional public input on the park design, and final design documents will be completed following this public process. The City plans to begin construction in spring/summer of 2016.

As part of the Skategarden Expansion Matching Grant Project, the existing Conservation Easement will be amended and restated to include the expansion property. In addition, a Recreation Covenant requiring that the entire park property remain open to the public in perpetuity will be recorded over the entire 1.5-acre park.

Project Match and Timeframe

As required under the Matching Grant Program Guidelines, the Matching Grant Agreement obliges the City of Sebastopol to provide a match of \$381,853, which will be comprised of funding from a State Housing-Related Parks grant, the City's Parks In Lieu, Skate Park Fund, and

other City funding. The City’s match will be used to complete the final design documents, construction, and three years of maintenance at the expansion site (see budget table below). The City’s anticipated operation and maintenance costs are expected to be less than 10% of the total match. The District’s funding will be used entirely toward construction of the public recreation improvements such as pathways, picnic areas, grassy areas, and improved access at Flynn Street.

Under the terms of the Matching Grant Agreement, the City must complete improvements, expend all District and matching funds, and formally open the expanded site as a public park by October 19, 2019.

Sebastopol Skategarden Expansion Matching Grant Project Estimated Budget

Task	District Funding	Match Funding	Total Cost
Design	-	\$24,950	\$24,950
Construction	\$381,853	\$305,904	\$687,757
Maintenance	-	\$51,000	\$51,000
TOTAL	\$381,853	\$381,854	\$763,707

District Acquisition Plan: Connecting Communities and the Land

The project furthers objective and policies in the District’s Acquisition plan by:

- Acquiring or protecting lands that promote public access in proximity to urban communities.
- Ensuring District-protected lands are managed to protect conservation values while allowing compatible public recreational uses.

District Expenditure Plan

The grant is consistent with the District’s Expenditure Plan, specifically regarding other open space projects, including urban open space and recreation projects within and near incorporated areas and other urbanized areas of the county.

City of Sebastopol General Plan

In July of 2002, the City of Sebastopol’s City Council determined that the original Skategarden Park acquisition and development was consistent with the City’s General Plan by working toward the goal of five acres of parkland per 1,000 residents. In April of 2014, the City determined that the expansion project was consistent with the City’s General Plan by expanding existing community recreational resources.

Fair Market Value Determination

The expansion of the Conservation Easement and Recreation Covenant are interests in real property being acquired by the District. Therefore, the Fiscal Oversight Commission is being requested to determine that the District is not paying more than fair market value for these interests. The City of Sebastopol is conveying the expanded Conservation Easement and Recreation Covenant to the District as a condition to receiving Matching Grant funds for recreational development of the expansion parcel. No funds are being paid by the District for the acquisition of either the expanded Conservation Easement or the Recreation Covenant. Since the District's Matching Grant does not include any payment for the expanded Conservation Easement or the Recreation Covenant, the District is not paying more than the fair market value for the acquisition of these interests.

Recommendation

District staff recommend that the Commission adopt a resolution determining that the acceptance of the expanded Conservation Easement and Recreation Covenant as a condition of the proposed Matching Grant for recreational development, does not exceed the fair market of such interests.

RESOLUTION NO.:

DATED:

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE SONOMA COUNTY OPEN SPACE FISCAL OVERSIGHT COMMISSION DETERMINING THAT THE ACQUISITION PRICE FOR THE PROPOSED ACQUISITION OVER THE SEBASTOPOL SKATEGARDEN EXPANSION PROPERTY DOES NOT EXCEED FAIR MARKET VALUE

WHEREAS, by virtue of the contract dated December 7, 2010, between the County of Sonoma and the Sonoma County Agricultural Preservation and Open Space District ("the District") and Sonoma County Board of Supervisors Resolution No. 10-0832 dated December 7, 2010, this Board of Commissioners is required to review each proposed District acquisition or conveyance in order to determine whether the District would be paying more or receiving less than fair market value for the open space interests being acquired or conveyed; and

WHEREAS, the City of Sebastopol applied to the District's 2014 Matching Grant Program and was accepted with a recommendation for funding of \$381,853 by the District's Board of Directors on October 14, 2014, for recreational development of the 0.5 acre Sebastopol Skategarden Expansion property (Matching Grant Project); and

WHEREAS, as a condition of the Matching Grant Project, the City of Sebastopol is conveying a Conservation Easement (amended to include the 0.5 acres) and a Recreation Covenant over existing Skategarden Park and the expansion property (1.5 acres in total) to the District; and

WHEREAS, the District's General Manager is proposing to recommend to the District Board of Directors a matching grant subject to the recordation of (1) a Conservation Easement generally limiting the use of the Property to low-impact public outdoor recreation compatible with the open space values of the Property, and requiring that all income generated on the Property is re-invested in the Property; and (2) a Recreation Covenant obligating the City to operate and maintain the Property for public outdoor recreation in perpetuity.

NOW THEREFORE BE IT RESOLVED, that this Board of Commissioners hereby finds, determines, declares and orders as follows:

1. *Truth of Recitals.* The foregoing recitals are true and correct.

2. *Fair Market Value.* The District is accepting the expanded Conservation Easement and the new Recreation Covenant as a condition of providing funding for the development of recreational improvements on the 0.5 acre Sebastopol Skategarden Expansion property. The Board of Commissioners finds that under these circumstances the District's expenditure of the Matching Grant Funds does not exceed the fair market value of these open space interests being acquired.

COMMISSIONERS:

AYES: _____ **NOES:** _____ **ABSTAIN:** _____ **ABSENT:** _____