

**MONTEREY PENINSULA REGIONAL PARK DISTRICT
BOARD OF DIRECTORS MEETING**

DATE: March 03, 2021
TO: Board of Directors
FROM: Rafael Payan, General Manager
SUBJECT: Consideration of Resolution #2021-03, Approving of the Monterey Peninsula Regional Park District Approving Donation of Seawall Mitigation Funds to the Monterey Peninsula Regional Park District for the Purchase of Coastal Property or Donation to One or More Southern Monterey Bay State Parks

SUMMARY:

On September 22, 2009, the California Coastal Commission (Coastal Commission) notified the Monterey Peninsula Regional Park District (MPRPD or District) that the District was assigned as a beneficiary of Irrevocable Standby Letter of Credit No. LCCA 20-14882, dated March 19, 2007, providing for five annual drafts, each in the amount of \$430,011, totaling \$2,150,055. The District received three drafts totaling \$2,225,241. These funds are referred to as the "Seawall Mitigation Fund" in this report. As of January 31, 2021, these funds have accrued \$291,086 in interest earnings.

The Seawall Mitigation Fund was conditioned that these monies, and any interest income generated by these funds, be used by MPRPD for the express purpose of purchasing private property that would be converted for public recreational use and provide beach access in southern Monterey Bay.

Although these funds were slated to expire on March 18, 2021, the Coastal Commission has notified MPRPD that these funds will continue to be available for MPRPD's use for the purchase of beach/dune property. The Coastal Commission supports MPRPD staff's submittal of Resolution #2021-03 (**ATTACHMENT 1**) for the MPRPD Board's review and action.

FISCAL IMPACT:

\$2,516,327 as of January 31, 2021, to be applied for the purchase of a qualifying property.

FUNDING SOURCE:

Seawall Mitigation Fund and its interest earnings

FUNDING BALANCE:

\$2,516,327 as of January 31, 2021

DISCUSSION:

The Coastal Commission determined that construction of the Ocean Harbor House seawall by a private party would result in the loss of about one-acre of beachfront sand area over time. Per the internet, "Ocean Harbor House has ocean view condominiums for sale [and rental] in Monterey that front the Monterey Bay. Del Monte Beach stretches before, and along side you. If you want an ocean view home in Monterey and want to be steps to the beach, you can't get a closer location than this. This 2 part development is located at #1 Surf Way and #125 Surf Way in Monterey, California."

As noted above, in 2009, the California Coastal Commission Coastal notified the MPRPD that the District would be receiving five annual drafts, each in the amount of \$430,011. These funds were to be placed in a separate interest-bearing account held by MPRPD, and not comingled with any other funding source. MPRPD has complied with this condition. Another condition stipulated that the purpose of these funds would be limited to the purchase of private beachfront/dune property, and that said property would then be converted for public recreational use and beach access in southern Monterey Bay.

Over the course of the last eight-years, MPRPD explored several options, frequently communicating with Ms. Susan Craig, District Manager - California Coastal Commission. These communiques allowed MPRPD to provide updates to, and obtain supplemental information from, the Coastal Commission. A key topic of discussion between these agencies was identifying and securing a solution that would allow MPRPD to access these funds after the March 18, 2021 expiration date.

On September 02, 2020, District Manager Craig informed MPRPD's General Manager that, "I've discussed the issue of the Ocean Harbor House seawall mitigation fee expenditure deadline (i.e., March 18, 2021) with other Coastal Commission staff. We are very encouraged about the discussions that you have been having with [several parties] for visitor-serving and public access and recreation uses, as well as habitat restoration."

Ms. Craig added, "We understand that these discussions/negotiations have been sidelined during the Covid-19 pandemic. I want to assure you that we believe there are options to address the fee expenditure deadline in a manner that would allow MPRPD to retain the mitigation money past the March 18, 2021 deadline so that it could be used toward the purchase of [a qualifying] property (the mitigation fee condition requires that the \$ be donated to State Parks if it is not used within a specified time, but also allows the \$ to be donated to another organization that is acceptable to the Commission's Executive Director (i.e. staff). One option would be for MPRPD to donate the money to itself or to a coalition formed [by MPRPD] whose purpose is the purchase of [a qualifying] property. Commission staff is amenable to such a solution to address the deadline."

On February 17, 2021, District Manager Craig and MPRPD staff exchanged information regarding the drafting of Resolution 2021-03 and staff's submittal of said Resolution to MPRPD's Board for review and action at the March 03, 2021 meeting. Ms. Craig stated,

“It would be better if the entire [Seawall Mitigation Fund] was dedicated to purchase of the property.” She added, “It would be great if the entire fee would be allocated toward the purchase. It doesn’t have to be stated in the resolution – a statement in an email would suffice.”

MPPRPD staff complied with this request stating that, “MPPRPD shall use these funds, in their entirety, for the sole purpose of purchasing [a qualifying] property. These funds shall not be used for MPPRPD’s administrative costs. We are eager to present the respective Resolution during MPPRPD’s March 3rd Board meeting. Thanks for your guidance.”

RECOMMENDED ACTION:

Staff respectfully recommends that MPPRPD’s Board approve Resolution 2021-03 (**ATTACHMENT 1**). Approval of this Resolution will facilitate MPPRPD’s continued access to, and use of, the Sea Wall Mitigation Fund and its interest earnings for the express purpose of purchasing private property that will be converted for public recreational use and beach access in southern Monterey Bay. A revised deadline for this fund’s expenditure was not issued.

In compliance with the Coastal Commission’s direction, if these funds cannot successfully be used for the purchase of a qualifying property, MPPRPD shall donate the remaining Seawall Mitigation Funds and their interest earnings to one or more of the State Parks located along southern Monterey Bay (Fort Ord State Park, Marina State Beach, Seaside State Beach, or Monterey State Beach), or other organization acceptable to the Coastal Commission’s Executive Director, for the purpose of providing public access and recreation improvements to and along the shoreline, including improvements to the California Coastal Trail.

ATTACHMENT:

[1. Resolution 2021-03](#)