

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

DATE: March 3, 2021
TO: Board of Directors
FROM: Michael J. Whilden, Legal Counsel
SUBJECT: Consider Amicus Support for East Bay Regional Park District Appellate Case

SUMMARY:

East Bay Regional Park District (EBRPD) was sued when it attempted to remove trees within one of its parks. (*Save Lafayette Trees, et al, v. EBRPD*, Contra Costa County Superior Court Case No. C17-01909.) The lawsuit alleged that because the trees were also within the territorial jurisdiction of the City of Lafayette, EBRPD was required to comply with the City's tree ordinance and obtain a city permit for tree removal. The Trial Court ruled in favor of EBRPD and Plaintiffs appealed. EBRPD has asked other regional park districts to support its legal position by filing an Amicus (friend of the court) Brief.

FISCAL IMPACT:

Legal expenses for participating in the appeal as amicus would be a \$1000.00 contribution to the law firm researching and drafting the Amicus Brief, and the cost of my time in communications with counsel and review and comment on the brief to ensure its consistency with MPRPD goals. I estimate that my fees for this will not exceed \$1000.00

FUNDING SOURCE:

6149-Professional Services-Administration

FUNDING BALANCE:

\$163,325 as of 1/31.

DISCUSSION:

As legal counsel for MPRPD, I have on several occasions been asked to look at legal issues regarding the District's authority as it relates to the authority of local jurisdictions and special districts where our parks and open space properties are physically located. There is not a clear legal opinion from an appellate court establishing the authority of regional park districts over their land, as it relates to the authority of local jurisdictions. MPRPD would benefit from a legal opinion that clearly establishes its authority over management of its lands, such as tree removal, without having to defer to the ordinances and rules of the local jurisdictions in which are property is located. The purpose of submitting an Amicus Brief to the Appellate Court is to urge the Court to make such a ruling.

RECOMMENDED ACTION:

Legal Counsel recommends the Board authorize MPRPD to appear as Amicus and file a brief in support of EBRPD's position.