



Midpeninsula Regional
Open Space District

R-20-144
Meeting 20-29
December 9, 2020

AGENDA ITEM 5

AGENDA ITEM

Application for Grant Funding from the Wildlife Conservation Board

GENERAL MANAGER'S RECOMMENDATION *den*

Adopt a resolution authorizing the General Manager to submit an application for grant funding from the Wildlife Conservation Board and to negotiate a grant funding agreement for \$5,000,000 to support the planning and design of the Highway 17 Wildlife and Regional Trails Crossing Project.

SUMMARY

The General Manager recommends that the Midpeninsula Regional Open Space District (District) adopt a resolution authorizing the General Manager to submit an application to the Wildlife Conservation Board (WCB). This report provides a description of the state funds available through the WCB and the approval process for use of the funds.

DISCUSSION

The Fiscal Year 2020-21 State Budget passed by the state legislature and signed by the Governor on June 29, 2020 reappropriated \$10,000,000 in funding to the WCB. The original \$10 million appropriation requested by Senator Beall was to support San Jose Water Company (SJWC) land acquisitions. The Senator secured an expanded use of the funds at the time of reappropriation to include a broader array of public benefits that align with the District's mission. The September 30, 2020 Legislative Report to the Board (Attachment 1) noted, "This reappropriation did two important things: first, it extended the encumbrance or expenditure deadline for the funds to June 30, 2025; and second, it expanded the eligibility of projects to include the acquisition, planning, design, development, public access, rehabilitation, restoration, protection, and expansion of wildlife corridors and open space, including projects to improve connectivity and reduce barriers between habitat areas in the Upper Guadalupe, Los Gatos Creek, Saratoga Creek and adjacent areas from the San Jose Water Company and other land owners."

In late 2020, the District met with the WCB Executive Director to discuss priorities for use of the funding, which will be administered by WCB through a non-competitive grant process. The proposed use of \$5 million of the funding will be for planning and design components of the Highway 17 Wildlife and Regional Trails Crossing Project. The District must complete grant-funded work by March 31, 2025 in order to submit for reimbursement prior to June 30, 2025.

WCB requires a resolution from the District's Board of Directors prior to reviewing the project and potentially awarding funds at the February 2021 WCB Board meeting. The resolution (Attachment 2) authorizes the General Manager or her designee to sign the application for WCB funds and to execute a grant agreement for the funding.

FISCAL IMPACT

Upon review and approval by WCB, this funding opportunity would have a positive impact of up to \$5,000,000.

BOARD COMMITTEE REVIEW

This report was not previously reviewed by a committee.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act.

CEQA COMPLIANCE

Submitting grant applications to secure funding is not subject to the California Environmental Quality Act (CEQA). The WCB requires that grantees comply with CEQA and certify that the CEQA analysis for any project encompasses all aspects of the work to be completed with grant funds.

NEXT STEPS

If approved by the Board, District staff would complete a WCB grant application for the Highway 17 Crossing Planning and Design Project and the General Manager would submit the application to the WCB for consideration of a funding award at the February 2021 WCB Board meeting. Upon review and approval by WCB, District staff would work with WCB staff to develop a grant agreement for grant funding and the General Manager would execute the agreement.

Attachments

1. Legislative Report to the Board – September 30, 2020.
2. Resolution authorizing the General Manager to submit an application for Wildlife Conservation Board grant funding and to negotiate a grant funding agreement for \$5,000,000.

Responsible Department Head:

Stefan Jaskulak, Chief Financial Officer, Administrative Services

Prepared by:

Deborah Hirst, Grants Program Manager, Administrative Services

Contact person:

Jordan McDaniel, Senior Grants and Procurement Technician, Administrative Services



From: Environmental & Energy Consulting
To: Midpeninsula Regional Open Space District
Date: September 30, 2020

Re: EEC 2020 Post-Session Update

As the 2020 legislative session draws to a close, below is a summary of the current status of Midpeninsula Regional Open Space District's (Midpen) legislative and Budget priorities. As a reminder, the California Budget deadline previously passed and all Fiscal Year 2020-2021 Budget conversations and decisions have concluded. The deadline for the Governor to sign or veto bills was September 30th; therefore, the fate of all bills introduced in the 2020-2021 legislative session have been determined. All chaptered bills will go into effect on January 1st, 2021 unless they included an urgency clause.

California Budget: Conservation Priorities

Governor Newsom signed the FY 20-21 State Budget on June 29th. The final 2020 Budget Act was a \$202.1 billion spending plan to strengthen emergency response, protect public health and safety, and promote economic recovery while closing a \$54.3 billion budget shortfall caused by the COVID-19 recession. Key takeaways of the final budget include:

- Retention of baseline funding for the Department of Fish and Wildlife and the Department of Parks and Recreation;
- Retention of funding for the Habitat Conservation Funding;
- Inclusion of \$4M for the Cutting the Green Tape Initiative at the California Natural Resources Agency; and
- Reappropriation and expansion of the original \$10M to the Wildlife Conservation Board (WCB) to support San Jose Water Company (SJWC) land acquisitions.

Senator Beall secured a reappropriation and expansion of the \$10M to the Wildlife Conservation Board in the FY20-21 Budget. This reappropriation did two important things: first, it extended the encumbrance or expenditure deadline for the funds to June 30, 2025; and second, it expanded the eligibility of projects to include the acquisition, planning, design, development, public access, rehabilitation, restoration, protection, and expansion of wildlife corridors and open space, including projects to improve connectivity and reduce barriers between habitat areas in the Upper Guadalupe, Los Gatos Creek, Saratoga Creek and adjacent areas from the San Jose Water Company and other land owners. Midpen has been working closely with WCB to coordinate the distribution of these funds, and most immediately plans to use a portion of these funds to support the acquisition of the 182 El Sereno acquisition from SJWC along with several components of the Highway 17 project.

Cap-and-Trade/Greenhouse Gas Reduction Fund

Governor Newsom's Greenhouse Gas Reduction Fund (GGRF) final proposal for the FY20-21 Budget was significantly altered from previous proposals in response to COVID-19 impacts and the anticipated recession. Due to the anticipation of significantly reduced and unstable Cap-and-Trade auction revenues, the Governor introduced a "pay-as-you-go" Cap-and-Trade funding calculation that would establish quarterly appropriations from the Greenhouse Gas Reduction Fund. His proposal also prioritized the following three investments, which would need to be made whole prior to appropriating funds to any additional priorities:

- 1) Forest Health and Fire
- 2) Air Quality
- 3) Safe Drinking Water

With this proposal, CalFire would receive funding for the Forest Health and Fire Prevention programs. The Governor has expressed interest fuel load management as one of his wildfire priorities to be addressed within this.

Ultimately, because Cap-and-Trade auction revenues were reported at very low numbers, it resulted in the assumption that no new funds would be available for new appropriations. The FY20-21 GGRF appropriations, including the three investments cited above, were completely deferred until next year. We can assume the Governor's office will work off the their proposal from May, but they have not said anything publicly.

Policy Measures

After an unconventional and chaotic legislative year, during which public officials and stakeholders were faced with reacting to the unprecedented impacts of COVID-19 in real-time, the outcomes of Midpen's high priority bills that moved forward include:

- [SB 1372 \(Monning\)](#) Wildlife corridors and connectivity: Wildlife and Biodiversity Protection and Movement Act of 2020
 - Midpen Position: Support, Priority 1
 - Outcome: Held in Committee
- [AB 1788 \(Bloom\)](#) Pesticides: use of second-generation anticoagulant rodenticides
 - Midpen Position: Support, Priority 1
 - Outcome: Signed
- [AB 1190 \(Irwin\)](#) Unmanned aircraft: state and local regulation: limitations
 - Midpen Position: Opposed, Priority 1
 - Outcome: Dead
- [AB 3005 \(R. Rivas\)](#) Leroy Anderson Dam and Reservoir: permitting, environmental review, and public contracting
 - Midpen Position: Support, Priority 2
 - Outcome: Vetoed
- [SB 940 \(Beall\)](#) Housing Crisis Act of 2019: City of San Jose.
 - Midpen Position: Support, Priority 2
 - Outcome: Signed

- [SB 795 \(Beall\)](#) Economic development: housing: workforce development: climate change infrastructure
 - Midpen Position: Support, Priority 2
 - Outcome: Dead
- [AB 2954 \(Rivas\)](#) California Global Warming Solutions Act of 2006: climate goal: natural and working lands
 - Midpen Position: Support, Priority 2
 - Outcome: Dead
- [SB 1448 \(Bradford\)](#) Fire prevention: electrical corporations: wildfire mitigation plans: workforce diversity
 - Midpen Positions: Support, Priority 2
 - Outcome: Dead

SB 1372, authored by Senator Monning, was introduced by in partnership with the Wildlife Corridor Working Group (WCWG), whose membership includes Midpen. The overall goal of SB 1372 was to facilitate the migration of critical wildlife populations by improving coordination between relevant agencies and ensuring wildlife corridors are integrated into CalTrans projects. Currently, Caltrans recognizes projects within a Regional Conservation Investment Strategies (RCIS), but because RCIS's are not statewide, many projects are left out. SB 1372 looked to solve this by developing an alternative strategy. Unfortunately, due to the nature of the 2020 legislative environment, and the restrictions placed on the legislature to limit their bill packages to urgent or no-cost bills, SB 1372 was held in committee. The WCWG is committed to re-introducing this bill in 2021 and continuing conversations with the related Agencies.

AB 1788, authored by Assemblymember Bloom, is a two-year bill that was introduced in 2019. AB 1788 would place restrictions on the use of second generation anti-coagulant rodenticides, which have been shown to be fatal to wildlife. This bill was supported by the AB 1788 Coalition whose membership includes Midpen. After passing out of the legislature, AB 1788 was presented to the Governor on October 4th. Governor Newsom signed the bill on September 29th, and it will go into effect on January 1, 2020.

AB 1190, authored by Assemblymember Irwin, was introduced in 2019 and would provide a framework for local agencies to regulate the use of unmanned aircraft systems and provide qualified immunity to local agencies operating drone recreation areas. Midpen took an oppose position to this bill because it would restrict Midpen's rights to regulate the use of potentially destructive drones on Midpen property. After many conversations we were able to successfully block AB 1190 from moving during the 2019-2020 legislative session.

Funding Measures

Several large-scale conservation funding measures were attempted during this past legislative session as an opportunity to revitalize and stimulate communities suffering from the economic, health and safety, and injustices resulting from COVID-19, wildfires, and climate change. Unfortunately, because legislators were forced to respond to the extreme

and unprecedented district impacts of these emergencies, coupled with the precarious nature of the legislative process due to COVID-19, all of them ultimately failed to pass during the 2019-2020 session.

Several 2020 state bond measures were introduced by legislative members, including [SB 45 \(Allen\)](#), [AB 352 \(E.Garcia\)](#), [AB 1298 \(Mullin\)](#), and [AB 3256 \(E.Garcia\)](#). Although strong and sustained efforts were made by legislative leadership and stakeholders to place a bond on the 2020 ballot as a critical economic stimulus tool, ultimately none of the bond measures made it to the Governor's desk, largely due to the compressed and volatile legislative timeline.

When it became clear that it was unlikely that the legislature would approve a bond for the November ballot the Assembly and Senate [introduced](#) a joint \$100B Economic Stimulus Plan. This plan would offer economic recovery without raising taxes through mechanisms including Senator Hertzberg's novel tax-incentive proposal. Unfortunately, the legislature was also unable to fully entertain this proposal due to the impacts of the pandemic.

Immediately thereafter, as the legislative session was winding down, wildfires began erupting throughout the state. Attention on an economic stimulus plan shifted to a wildfire funding package and interested stakeholders across the state came together to develop policy language. The package was eventually introduced as [AB 1659 \(Bloom\)](#). The bill was introduced a few days before the last day of session, but its last-minute introduction led to its failure to be heard on the Senate Floor.

RESOLUTION NO. 20-__

RESOLUTION OF THE BOARD OF DIRECTORS OF THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT APPROVING THE APPLICATION FOR A WILDLIFE CONSERVATION BOARD GRANT FOR THE HIGHWAY 17 CROSSINGS PLANNING AND DESIGN PROJECT

WHEREAS, funds were made available to the Wildlife Conservation Board (“WCB”) for the enhancement or restoration of fish and wildlife habitat and for the development of public access facilities for hunting, fishing or other wildlife-oriented recreational uses; and

WHEREAS, Midpeninsula Regional Open Space District (“District”) intends that the Highway 17 Crossings Planning and Design Project will complete construction designs and permits for a state highway regional trail overcrossing, wildlife corridor undercrossing, and up to 5.4 miles of related directional fencing; and

WHEREAS, the project will reduce vehicle-wildlife collisions and increase driver and passenger safety on a key commuter route between Santa Cruz and Silicon Valley; and

WHEREAS, construction of the undercrossing will ensure habitat connectivity and safe passage for wildlife, linking over 30,000 acres of habitat including four District open space preserves, three Santa Clara County parks, and private watershed lands of San Jose Water Company.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Midpeninsula Regional Open Space District hereby:

1. Approves the filing of an application for funding from the WCB.
2. Certifies the District will comply with all federal, state and local environmental, public health, and other appropriate laws and regulations applicable to the project and will obtain or will ensure that the other project partners obtain all appropriate permits applicable to the project.
3. Further commits to the terms and conditions specified in the grant agreement.
4. Authorizes the General Manager or designee as a representative of the District to conduct negotiations, execute, submit and sign all documents including but not limited to applications, agreements, amendments, payment requests, and other documents which may be necessary to administer grant funding for the proposed project.

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PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on _____, 2020, at a regular meeting thereof, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Jed Cyr, Secretary
Board of Directors

Karen Holman, President
Board of Directors

APPROVED AS TO FORM:

Hilary Stevenson, General Counsel

I, the District Clerk of the Midpeninsula Regional Open Space District, hereby certify that the above is a true and correct copy of a resolution duly adopted by the Board of Directors of the Midpeninsula Regional Open Space District by the above vote at a meeting thereof duly held and called on the above day.

Jennifer Woodworth, District Clerk