



Santa Clara Valley Water District

File No.: 16-0667

Agenda Date: 8/23/2016

Item No.: 5.2.

BOARD AGENDA MEMORANDUM

SUBJECT:

Amendment No. 3 to Agreement No. A1969, Master Reservoir Lease Agreement, with the County of Santa Clara, for Recreational Use of District Reservoirs, Project No. 95011003.

RECOMMENDATION:

- A. Receive an update on public recreation at District reservoirs and other joint engagements of the District and the Parks Department of the County of Santa Clara;
- B. Authorize the Interim Chief Executive Officer (CEO) to execute the Third Amendment to the Master Reservoir Lease to extend the expiration date of the existing Master Reservoir Lease between the District and the County of Santa Clara by two years; and
- C. Receive and consider information regarding planned discussions with the County of Santa Clara to develop a potential memorandum of understanding to strengthen the relationship with the District in areas of mutual interest, including public recreation at District reservoirs, and provide direction as needed.

SUMMARY:

Since 1958, the Parks Department (County Parks) of the County of Santa Clara (County) has administered and provided for public recreational activities at District reservoirs. In 1996, the District and County Parks negotiated and agreed upon a twenty year Master Reservoir Lease to include language addressing stronger partnerships in signage, joint repairs, erosion control, trails implementation, and public relations. A copy of the existing Master Reservoir Lease is provided as Attachment 1. The term of the Master Reservoir Lease ends on September 10, 2016. District and County Parks staff, who have engaged in negotiations for a successor agreement since 2014, have not completed those negotiations and have recently discussed the merits of a two-year extension of the current Master Reservoir Lease to allow sufficient time for completion of a successor agreement. A successor agreement may prescribe roles for the District and the County that are similar to their existing roles or it may shift, expand or redefine the existing roles. It is the lack of convergence in defining those roles during negotiations that leads staff of both agencies to recommend a two year extension of the term of the Master Reservoir Lease. The recommended two year term extension, which would end on September 10, 2018, is contained in Attachment 2.

On June 29, 2016, senior staff from the District and County Parks met and discussed the concept of

an overarching agreement (perhaps a memorandum of understanding) that could advance and strengthen the relationship between the District and County Parks in a number of areas including recreation at District reservoirs, collaboration in expanding the countywide trail network, studies and potential development of future fish habitat enhancement and additional recreation at locations such as Ogier Ponds and Metcalf Ponds, and flood protection projects such as those at Rancho San Antonio and Lake Silveira. Recognizing that seizing opportunities and meeting challenges by both the District and County Parks is becoming more complex due to ongoing city and county development as well as pressure on the natural environment, staff intends to continue discussions regarding the proposed memorandum of understanding with County Parks. The Board may wish to consider whether it should designate two or three Board Members to formally engage with representatives of the County Board of Supervisors in identifying ways to establish a broader partnership between the District and County Parks.

Background

Public Recreation

In support of public recreation, the District Act describes the following purposes and goals for the District:

- i. Enhance, protect, and restore streams, riparian corridors, and natural resources.
- ii. Preserve open space in Santa Clara County and support the county park system.
- iii. Acquire, construct, maintain, and install landscaping or recreational facilities in connection with any dam, reservoir, or other works owned or controlled by the district.

Board adopted Ends Policies include:

- i. E4.2 - Improved quality of life in Santa Clara County through appropriate public access to trails, open space and District facilities.
- ii. E4.2.1 - Support healthy communities by providing public access to additional trails, parks, and open space along creeks and in the watersheds.
- iii. E4.2.2 - Support healthy communities by providing appropriate public access to District facilities

County Parks Mission and Vision describe the following purposes and goals:

- i. Provide, protect, and preserve regional park lands for the enjoyment, education, and inspiration of this and future generations.
- ii. Provide a diverse regional parks, trails, and natural areas that connect people with nature, supports healthy lifestyles, offers outstanding visitor experiences ... while balancing recreational opportunities with the preservation of natural, cultural, historic and scenic resources.

For over 50 years, the District and the County have collaborated in providing recreational access to District reservoirs while maintaining the quality and quantity of these important water supply resources for the District's wholesale customers. The current Master Reservoir Lease has proven to be a generally successful contractual arrangement under which County Parks has been responsible

for all public recreation at the designated District reservoirs and recharge ponds, and the District has made various accommodations that do not affect water supply or water quality to enable County Parks to fulfill this role. County Parks estimates visitor counts of approximately one million per year, with approximately 155,000 of these visits engaged in water based activities. Although many of the one million visits are due to repeat visitors in each year and some are from outside the County, this number equates to 53 percent of the County's residents. The District facilities that are encompassed in the Master Reservoir Lease are: Almaden, Calero, Anderson, Coyote, Stevens Creek, Lexington, Guadalupe, Chesbro, Uvas, and Vasona reservoirs as well as the Camden and Coyote recharge ponds.

Recreational activities encompassed in the Master Reservoir Lease include picnicking and trail access, boating, and fishing. Limited fish stocking and special-event supervised swimming events have also been approved by the District. The Master Reservoir Lease also allows for boat launch facilities at several reservoirs, the boathouse at Vasona Reservoir, the Park Ranger facilities and horse stables (no longer there) at Calero Reservoir, the Los Gatos Rowing Club sublease at Lexington Reservoir, and campgrounds at Coyote Reservoir.

Over the term of the existing agreement, District and County Parks staff collaborated to address changing conditions, notably to implement control measures to prevent invasive mussels from entry to the District's system. It is anticipated that ongoing water quality concerns and changing circumstances will continually require adjustment to existing practices by the District and County Parks.

Other District-County Parks Engagements

In addition to the Master Reservoir Lease, there are a number of other joint efforts and agreements completed and underway with County Parks. Selected projects are summarized below.

Coyote Parkway Lakes Sites 10 A and 10B

In 2005, the County completed improvements on Stevens Canyon Road to alleviate flooding from Stevens Creek. To address environmental impacts from the project, the County was obligated to complete environmental mitigation on other comparable lands in the county and identified District-owned lands at Stevens Creek Reservoir for this purpose. In exchange, the County agreed to sell the Coyote Parkway Lakes Sites 10A and 10B, which were used by the District for the Coyote Wetlands Restoration project.

Trails

The 1995 Countywide Trails Master Plan updated trail maps and policies dating from 1980 for inclusion in the County General Plan. The District and the County have worked cooperatively in developing a significant portion of the master plan trail system, including feasibility studies for trail alignments as they pass through and are subsequently implemented by area cities. The District provides trail grants, provides District owned property at no cost, and incorporates trail-compatible design features in its flood protection projects for subsequent trail development. District operational and maintenance activities are modified or prioritized in consideration of this public use.

Ogier Ponds

The Ogier Ponds, owned by the County, are located at a flooded former aggregate quarry through which Coyote Creek flows. A project to separate the creek from the ponds has been identified as an ecological benefit. County Parks is agreeable to the evaluation of the site for pond separation and creek restoration and, if feasible, for subsequent use as a water supply/flood attenuation facility as long as County Parks' primary objective for recreational use is maintained. The County and District entered into a Memorandum of Agreement to study the feasibility of creek/lake separation and a multi use facility.

Metcalf Ponds

These ponds, owned in part by both agencies, are also a location where the separation of the creek and the ponds is desired for ecological restoration purposes. Feasibility studies of creek/pond separation proposals are planned, with the assistance of grant funds from the District.

Edenvale Stream Gauge Project - Coyote Creek

The District owns and operates the Edenvale Stream Gauge, located on County property, as an important potential flood monitoring instrument and for measuring water supply releases from Anderson Reservoir and Coyote Metcalf Ponds. The stream channel, which supports the stream gauge, had become overgrown and inoperable. The District worked with County for several months on an onsite mitigation plan that included re-establishment of a low flow channel, removal of invasive plants, pruning heritage oaks for health and vigor and improving the structure of the riparian canopy. The District desires to secure land rights to operate the gauge.

Lake Silveira Acquisition, Upper Llagas Creek Flood Protection Project

The District has been working with County Parks on acquisition of Lake Silveira in Morgan Hill. Lake Silveira, a flooded former aggregate quarry along Llagas Creek in San Martin, was purchased by the County with the express intent of partnering with the City of Morgan Hill to build an urban park. Funding was limited, and the park did not get developed. In 2010, the District approached County Parks about purchasing the property for compensatory mitigation for the Upper Llagas Creek Project. Detailed negotiations have been ongoing, with more recent coordination focused on a tri-party agreement between the District, City of Morgan Hill and the County whereby recreation and open space will be preserved within the compensatory mitigation site.

Rancho San Antonio Detention Basin, Permanente Creek Flood Protection Project

The District has worked with County Parks to obtain approximately 12 acres of easement at Rancho San Antonio Park to construct a detention basin to reduce downstream flooding from Permanente Creek in Mountain View and Los Altos. The project was designed to minimize disturbance to the park and entailed extensive collaboration with County Parks and Mid Peninsula Regional Open Space District, who manages the park for the County. In addition to providing a flood detention basin, the existing South Meadow parking lot will be replaced with a new expanded parking lot and restrooms. The project will enhance many acres of wildlife habitat, establish native trees and remove non-native trees that compete with native species. Construction is expected to begin in December 2016.

Master License Agreement for Mutual Access

From 2008 to 2012, the County provided the District with a master license agreement to allow for

District access to County Parks land to conduct minor activities such as surveying, environmental sampling, vehicle staging, meter reading, etc., which has benefitted the District. Currently, County Parks and District staff are considering a potential new license agreement which would allow for mutual access to County owned park land and all District owned property for certain activities.

County Parks' Partnership Proposal

County Parks proposes to develop a partnership agreement with the District that encompasses the broader scope of the joint interagency efforts rather than the historical practice of individual agreements. County Parks prepared a discussion paper dated June 29, 2016, provided in Attachment 3, describing several objectives, summarized as follows:

1. Compatible provision of (a) safe, reliable drinking water, (b) a safe community and healthy environment through managing natural resources, including watersheds and riparian area, (c) flood risk mitigation, and (d) public access and recreational use of the shared system of land and facilities managed by the District and the County.
2. Shared responsibility in stewarding these resources and providing public access to these lands and facilities.
3. Collaboration, leveraging the two agencies' individual strengths and resources.
4. Bilateral agreements should respect the priorities and requirements of each agency, and minimize conflict. Each agency should seek to empower its staff to make decisions that promote the agencies' mutual goals. Periodic reviews of the working relationship between the agencies should be held to ensure implementation of this collaborative culture.
5. By allowing for public access and recreational use of District property, the District can support County Parks' purposes and support its own goals of promoting public access and use.
6. County Parks' operation of District property enables County Parks to enhance its public mission and service delivery to the public. County Parks' management of District property also supports the District's other purposes and relieves the District of costs associated with management of those lands and facilities.
7. The County requests that the District enhance its proactive role in providing recreational facilities by enhancing County Parks engagement and participation in future District land acquisition, capital improvement, and policy development so that the two agencies can fulfill their joint and complementary public roles.
8. The County is interested in a strengthened District commitment to public recreational access and use of District facilities and modification of agreement terms for the assignment of liability for public use.

District Staff's Preliminary Perspective on County Parks' Partnership Proposal

While further analysis is needed prior to any recommendation, staff believes that a number of County Parks' objectives summarized above and provided in full in Attachment 3 could be beneficial to both

agencies. A number of objectives, however, will require further clarification in order to be properly considered regarding their potential scope and impact. A memorandum of understanding with County Parks could formalize the commitment of the two agencies to a set of mutually agreed upon principles and objectives. Staff believes that individual detailed agreements will continue to be necessary for each of the areas of collaboration such as recreation and the specific projects identified above. A single agreement to encompass all bilateral engagements between the two agencies would be too unwieldy and would be subject to frequent amendments; in addition, legal requirements such as liability would necessarily be tailored differently in the different areas. For recreation, the opportunity exists in advancing a specific agreement with County Parks that adopts the objectives and principles negotiated in the proposed memorandum of understanding.

FINANCIAL IMPACT:

Ongoing cost sharing with County Parks for its mussel control programs at District reservoirs is budgeted for each year in the amount of approximately \$375,000. Extending the Master Reservoir Lease through this amendment will continue this cost sharing obligation for an additional two years.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:

Attachment 1: Master Lease and Amendments 1 and 2
Attachment 2: Master Lease and Amendment 3
Attachment 3: Discussion Paper
Attachment 4: PowerPoint

UNCLASSIFIED MANAGER:

Garth Hall, 408-630-2750