

AGENDA
REGULAR MEETING
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, October 20, 2009

C. BUSINESS BEFORE THE BOARD

3. LAND DIVISION

- a. Authorization to Purchase Fee Interest in 1,156 Acres of Real Property from Incultorum, LLC (Priem Family Foundation) and Transfer Funds to Complete the Acquisition of Tyler Ranch: Pleasanton Ridge Regional Park (Wenninger/Doyle)

RECOMMENDATION

The General Manager recommends that the Board of Directors authorize the purchase of fee title interest from Incultorum, LLC (Priem Family Foundation) of 1,156 acres, the remainder of the real property known as Tyler Ranch, located adjacent to Pleasanton Ridge Regional Park near the town of Sunol. The General Manager further recommends the transfer of funds required to complete the acquisition.

REVENUE/COST

In 2007 the appraised fair market value of the entire 1,476± acre Tyler Ranch was \$7,160,000 (\$4,700 per acre plus \$220,000 for miscellaneous improvements). The owners agreed to sell the property at a reduced price of \$6,637,500 (\$4,500 per acre), thereby making a donation of \$522,500. In September 2007 (Phase I), the Park District purchased 320 acres of the property for \$1.44 million.

Thanks to the generous financial support of the Priem Family Foundation, the Park District will now be able to complete this large acquisition. The Priem Family Foundation ("Foundation") is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code, created in part for the purpose of preserving open space in the greater East Bay Area. During Phase I, the Foundation agreed to purchase the remaining 1,156 acres for \$5,197,500 and to hold the property for up to three years to allow the Park District sufficient time to put together a funding package. The Foundation also agreed to a bargain sale for \$3,468,000 (\$3,000 per acre) which constitutes a donation to the Park District of \$1,729,500.

The Park District has secured funding from a number of sources to complete the transaction, most notably a \$1 million grant from the Alameda County Altamont Landfill Open Space Fund.

A committee composed of representatives from Alameda County, the City of Livermore, the City of Pleasanton and the Sierra Club uses funds from a legal settlement to help preserve open space in eastern Alameda County for biological diversity and non-motorized recreation. In addition, the Park District has been awarded a \$300,000 grant from the California Department of Parks and Recreation (DPR) Habitat Conservation Fund. Finally, a \$10,000 grant from the Frederick E. and Anne R. Barstow Fund, conveyed through the East Bay Community Foundation, will contribute to this purchase. The balance of the funding will come from Measure WW funds for Pleasanton Ridge and from Measure AA Interest for the South Metro area, as detailed below. Staff anticipates that some of these funds may be repaid in 2010 through the sale of a proposed conservation easement over up to 117 acres to Caltrans as a Resource Enhancement Project. Caltrans' project would include wetland and riparian improvements, watershed protection, and a management endowment. The proposed easement will be brought to the Board for its approval at a future date.

This proposed action makes the following transfers:

TRANSFER FROM:

Measure WW: Pleasanton Ridge (CIP229900WP48)	\$ 1,887,000
Measure AA Interest South Metro Area (CIP 229900BAAI)	512,100
Designated for Land Account (CIP240000GP15) (Barstow Grant)	<u>10,000</u>
Total	\$ 2,409,000

DPR Habitat Conservation Fund	\$ 300,000
Alameda County Altamont Landfill Open Space Fund	<u>1,000,000</u>
	\$ 3,709,100

TRANSFER TO:

Pleasanton Ridge/Tyler Ranch Phase II (CIP 2335)	
Purchase Price:	\$ 3,468,000
Title Policy and Escrow Fees	7,100
Staff Time	5,000
Demolition of Mobile Home and Outbuildings	55,000
Underground Electrical to Existing House & Minor Upgrades	75,000
Minor Road Grading and Erosion Control	40,000
Fencing	37,000
Solar Pump System for Grazing Water Improvements	<u>22,000</u>
Total	\$ 3,709,100

BACKGROUND

On September 19, 2006 by its Resolution No. 2006-9-218, the Board of Directors authorized staff to begin negotiations with the owners of the Tyler Ranch. Located in unincorporated Alameda County near the community of Sunol, the property was once owned by San Francisco financier C. H. Crocker. The ranch was owned by the Tyler family from the 1940s until it was sold to the Park District and the Priem Family Foundation in September of 2007.

Comprised of 11 Assessor's parcels, the 1,476 acre Tyler Ranch stretches almost 3.5 miles

along Sunol Ridge, rising dramatically nearly 2,000 feet in elevation from Niles Canyon. Four large parcels comprise more than 1,450 acres of the ranch; the remaining seven parcels are much smaller—totaling only about 18 acres—and are undeveloped remnants of the old Kilkare Woods subdivision along Kilkare Road. Moderately to steeply sloped, these parcels have significant physical limitations regarding access and utility. The northerly boundary of Tyler Ranch abuts Pleasanton Ridge Regional Park at the terminus of Kilkare Road.

One of the most prominent ridgelines in Alameda County, Sunol Ridge provides panoramic views of the Bay Area in all directions. The ridgetop consists of open grasslands and rock outcrops used for foraging by raptors, including golden eagles, red-tailed hawks and prairie falcons. From the ridge, the land slopes steeply eastward down into Sinbad Canyon, with a series of undulating, heavily wooded spur ridges, gullies and seasonal creeks which drain to Sinbad Creek and ultimately to Alameda Creek. This large property constitutes a significant portion of the Alameda Creek watershed. The canyon slopes are densely vegetated with a mixture of oak/bay woodland and chaparral. The property's expansive size, diversity of habitat, abundant water and proximity to 5,000 acres of protected open space at Pleasanton Ridge Regional Park will provide excellent opportunities for wildlife and wildlife viewing.

The property has excellent access from Foothill Road, a public paved road. In addition, a large, relatively flat area immediately adjacent to the road provides an outstanding opportunity for a future staging and picnic area. A 1950's vintage two-bedroom one-bath wood frame residence is located adjacent to Foothill, along with a 2,600 square foot barn, several small agricultural structures and a three-bedroom one-bath manufactured home currently occupied by Scott and Donna Crawford, who are acting as caretakers for the Foundation. They will stay on under a lease with the Park District to provide interim security on the site until staff is established there.

Several stock ponds and springs are located on the ranch, and the property has historically been grazed by cattle. Near Sunol Peak on adjacent property PG&E has constructed a microwave repeater station through a recorded easement which includes access via an unpaved fire trail from Foothill Road. The property has a zoning designation of "A," Agricultural District, and is subject to a Williamson Act Contract.

Under the Williamson Act, government entities are required to make findings prior to locating public improvements on contracted lands. (Govt. Code section 51292.) The Park District is exempt from making such findings because the purpose of the acquisition is for the primary benefit of the property to be acquired. (Govt. Code § 51923(e)(3).) Nonetheless, the Park District could easily make these findings in that 1) the Park District is not acquiring the property based upon the lower cost of acquiring land in an agricultural preserve; and 2) there is no other land within or outside the preserve on which it is reasonably feasible for the Park District to acquire to accomplish the same purposes as the Tyler Ranch. The purpose of the acquisition is to preserve and protect this unique property in perpetuity. The lower costs of acquiring property within an agricultural preserve is not a factor in the acquisition. Furthermore, the only agricultural use on the property is grazing which is a use the Park District intends to continue.

Recently, the Board approved a policy of non-renewing Williamson Act contracts (Land Conservation Contracts) on District-owned lands. Non-renewal is appropriate because the mission of the Park District includes the preservation of open space in perpetuity so that the Park District's acquisition of such contracted lands accomplishes similar purposes to the Williamson Act with far greater certainty. Once land is District owned a contract no longer serves the purpose of preserving the property, but it may impose unnecessary restrictions on the Park District's ability to efficiently carry out its operations. The attached Resolution includes authorization to file a notice of non-renewal of the contract with Alameda County. The non-renewal will commence a wind down of the contract which will finally expire in nine years.

Thanks to its generous funding partners, the Park District will now complete its largest single land acquisition since the 1990 purchase of the Wauhab property in the Ohlone Wilderness. This transaction will allow the District to protect a significant portion of the Alameda Creek watershed, preserve a prominent ridgeline and secure regional trail connections and public recreational opportunities.

ALTERNATIVES

No alternatives are recommended.

ACQUISITION EVALUATION

Pleasanton Ridge Regional Park Tyler Ranch Property

Site Description: The entirety of the irregularly shaped Tyler Ranch property consists of eleven assessor's parcels totaling 1,476.15± acres, located on Sunol Ridge between a portion of western Pleasanton Ridge Regional Park and Foothill Road just north of Niles Canyon Road. This acquisition will be done in two phases. The Park District is entering into an agreement for the acquisition of the first parcel, Phase I the most northerly 320-acre portion of the Ranch, which is immediately south of a portion of Pleasanton Ridge Regional Park. The agreement provides that the Park District may acquire the remaining 1,156 acres located to the southeast of Phase I in three years.

The entire property is best described as having steep terrain with a rolling ridge top. The elevations range from 280' at Foothill Road on the southern boundary to 2,150' at its highest point on Sunol Ridge. The higher elevations provide great scenic vistas of the Bay Area to the west, the tri-valley, and easterly beyond to the Sierras on a clear day. Open grassland is found on the ridge tops and the upper west facing slopes. The east facing slopes, the drainages and swales of the west facing slopes are heavily vegetated by oak/laurel woodland.

The only access to the property is gained from Foothill Road on a paved driveway. This driveway leads to the main fire/ranch road that extends the entire length of the property to Phase I, crossing through the northeast corner of a neighboring property.

Phase I is unimproved except for the PG&E microwave facility on the 1.43-acre communication easement on Sunol Ridge. Phase 2 has a number of structural improvements near the Foothill Road entrance. The structures include

- a 1,360 square foot 1955 wood frame house in fair condition
- a 1,425 square foot 1984 manufactured house with a wood deck set on a permanent foundation
- 3 wood framed agricultural buildings: a 2,600 square foot barn, an 835 square foot tack room and a 420 square foot shed. The barn is the only agriculture structure with a permanent foundation. The two smaller structures do not have a foundation and are in fair to poor condition
- Corral and agricultural fencing

The structural improvements are served by electricity and telephone. Each house is served by its individual septic system. Potable water is provided to both houses by a spring, which is then treated and gravity fed to the structures. There are a number of springs and least seven ponds throughout the property.

There is one owner occupied residence. The other residence is rented. There is an agricultural grazing lease. This lease does have a provision for cancellation if the property is sold. There is no annual revenue from the PG&E communication facility.

The property is within the Alameda County jurisdiction. The County General Plan designation is “Large Parcel Agriculture”. It is zoned A-100, Agriculture: 100-acre minimum. The property is located outside the county “Urban Growth Boundary” established under the voter approved Measure D, which greatly limits the subdivision potential of large agricultural lots within Alameda County. The property is also covered by a Williamson Act contract.

There is one one-acre in-holding with a pond within Phase 2. This in-holding is owned by the Kilkare Woods Association for the purposes of the private water supply. Although the Kilkare Woods Association has abandoned the water system and the appurtenant structures, the in-holding and the associated easement for roadway ingress and egress, installation and maintenance of pipelines and tanks remain.

PG&E has an easement through Phase 2 for ingress and egress, construction, maintenance within the private driveway/fire road for underground communication facilities appurtenant to the PG&E microwave facility easement in Phase I.

Acquisition Criteria: This acquisition:

- Implements the adopted Park District’s Master Plan.
- Helps maintain an equitable parkland distribution of facilities and programs throughout the District.
- Presents an acquisition opportunity.
- Helps complete existing parks, eliminates operational problems, and provides a buffer to protect trails, wildlife corridors and the visual integrity where necessary in existing parks.
- Qualifies for state and federal grants and funds from other sources.

Natural Resources: The Tyler Ranch is located along the crest of Sunol Ridge. It includes portions of the watersheds for Palomares and Sinbad Creeks. Both of these creeks drain into Alameda Creek in Niles Canyon. Non-native annual grasslands dominate the crest of Pleasanton Ridge. Coastal scrub, oak woodland, Oak-bay riparian areas flank the west and east slopes of the ridge. A number of small rock outcrops and stock ponds are found within the grassland areas. There are abundant native grasses and wildflowers found on the east and north facing slopes.

The ranch provides an important wildlife corridor between Niles Canyon and Pleasanton Ridge Regional Park. This connection allows for a number of animals with large ranges to use the mostly undisturbed habitats on the property. This would include large mammals such as mountain lion, bobcat, gray fox and mule deer. The grasslands provide good foraging areas for golden eagle, red tailed hawks, prairie falcons, American kestrels, and other raptors. Beechey ground squirrels are found on the property. Being a “keystone” species, they serve as prey for these and other mammalian and avian predators. The rock outcrops, grassland and coastal scrub provide critical habitat for Alameda whipsnake. The stock ponds with proper management, riparian areas and adjacent habitats may also provide habitat for red-legged frog and other amphibian species found in this area.

The property is currently grazed. However, in some portions of the southern section of the ranch, Phase 2, grazing is disproportionate and overgrazed in the vicinity of the water sources. There is opportunity to improve the habitat for grassland species through better grazing management and improved water sources.

Planning Issues:

Master Plan: This acquisition will be an expansion of an existing parkland or trail and is, therefore, consistent with the Master Plan 1997 Regional Parkland and Trail Map.

Land Use Planning: The existing approved 1995 Interim Land Use Plan and 2003 Land Use Amendment does not include either Phases 1 or 2. It is recommended that this property be held in land bank. This property has the potential for staging, trail access and park office/corp yard. The property will be included in a future amended Land Use Plan.

CEQA Compliance: This acquisition is categorically exempt from California Environmental Quality Act (CEQA) guideline Sections 15061(b) (3), 15301, 15316, 15325 the transfer of ownership of the land to preserve open space; and Section 15304, minor alterations of land with respect to grazing activities. This acquisition of land achieves protection of the open space and natural conditions and secures future public access to Pleasanton Ridge Regional Park. Any development of this property and land use changes would be subject to future CEQA review.

Public Safety:

Police: The vast majority of the Tyler Ranch is a remote property within the Alameda County Sheriff Department's jurisdiction. Phase 1 will initially be in land bank status and is currently only accessible by 4 wheel drive vehicles. In its current, undeveloped and remote condition, there would be minimal if any policing requirements. However, the potential remains for illegal activity such as off road vehicles along with firearm use and marijuana cultivation. Periodic checks by helicopter Eagle 5 or 6 should suffice, especially since this property borders the south end of an already existing, established rural Regional Park.

The remaining property, subject to the potential Phase 2 acquisition, is situated such that its only access is from the south end of the property at the existing southern terminus of Foothill Road. Most of the Phase 2 area is also remote, undeveloped, and steep. However, there are two houses and several agriculture structures at the south end of the property. Upon acquisition of Phase 2 and based on future decisions from the Land Use Plan and operational needs, police service requirements should be re-evaluated.

Fire: This acquisition like all large purchases will have an impact on Fire Services. Alameda County Fire has the primary responsibility for structure Fires and emergency medical services for this parcel. The California Department of Forestry and Fire Protection have primary responsibility for wildland fires. The East Bay Regional Parks Fire Services would also respond to wildland fires, structure fires and serious medical emergencies as backup and for resource protection.

Recommendation for Land Bank Status: Yes No Phase I should remain in land bank until public access and good trail connections are secured with the future acquisition of Phase 2. The entire property should be in land bank until the property is secured and set up for public access.

Site Cost Estimate:

Acquisition Estimate:

Phase I \$ 1,440,000

Funding source: Measure AA, Proposition 40, Land Acquisition funds and grant funds

Phase 2 \$ 3,468,000

Development Estimate:

Phase I \$ 0

Phase 2 (Shown in year 2007 dollars. Should be reevaluated and adjusted at the time of Phase 2 acquisition.)

Fencing	\$ 36,960
Solar Pump System for Grazing Water Improvements	\$ 22,000
Demolition of Mobile Home, Outbuildings, and Miscellaneous Fences	\$ 55,000
Underground Electrical to Existing House & Minor Upgrades	\$ 75,000
Minor Grading and Provisions for Erosion Control	<u>\$ 20,000</u>
TOTAL	\$208,960

Maintenance and Operational estimate: \$0*

Annual Estimate: \$ 25,068.80**

Total Five-Year Projection: \$ 125,344.00

Grazing Program Revenue Estimate: \$ 5,000.00

Timing: Escrow to close by September 28, 2007

* Other than the initial clean up costs, this acquisition through a cumulative effect will increase the need for additional staff and equipment.

** Estimate is based upon the annual Land Base Operating Cost Methodology.

9/5/07
LJPC

EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2009 – 10 -

October 20, 2009

AUTHORIZATION TO PURCHASE FEE INTEREST IN 1,156 ACRES OF REAL PROPERTY FROM INCULTORUM, LLC (PRIEM FAMILY FOUNDATION) AND TRANSFER FUNDS TO COMPLETE THE ACQUISITION OF TYLER RANCH: PLEASANTON RIDGE REGIONAL PARK

WHEREAS, on September 18, 2007 by Resolution No. 2007-9-239, the Board of Directors approved a Repurchase Agreement with the Priem Family Foundation (“Foundation”) for the for the acquisition of the 1,156± acre remainder of the Tyler Ranch property adjacent to Pleasanton Ridge Regional Park; and

WHEREAS, the Priem Family Foundation (“Foundation”) is a tax exempt organization created in part for the purpose of preserving open space in the greater East Bay Area; and

WHEREAS, the Foundation, through its subsidiary Incultorum, LLC, has agreed to sell the property to the Park District for \$3,468,000 (\$3,000 per acre), which is \$1,729,500 less than the Foundation’s purchase price; and

WHEREAS, acquisition of this property aids in important resource protection goals by maintaining open space, protecting endangered species habitat and watershed, and extending a wildlife corridor; and

WHEREAS, acquisition of this property also provides excellent opportunities for developing future public access for regional trails and wildlife observation; and

WHEREAS, acquisition of this property will expand the East Bay Regional Park District to more than 100,000 acres; and

WHEREAS, under CEQA and the Park District’s Environmental Review Manual, this project is Categorical Exempt and therefore not subject to preparation and processing of environmental documentation; and

WHEREAS, the Park District has been awarded a \$1,000,000 grant from the Alameda County Altamont Landfill Open Space Fund to aid in the purchase of Tyler Ranch; and

WHEREAS, the Park District has been awarded a \$300,000 grant from the California Department of Parks and Recreation (DPR) Habitat Conservation Fund, to aid in this acquisition; and

WHEREAS, the Park District has been awarded a \$10,000 grant from the Frederick E. and Anne R. Barstow Fund through the East Bay Community Foundation and staff recommends that these funds be transferred to aid in this acquisition; and

WHEREAS, the Park District also will use funds from Measure AA interest – South Metro area and from Measure WW for Pleasanton Ridge to complete this purchase;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bay Regional Park District hereby authorizes the purchase of the remaining 1,156 acres of Tyler Ranch and authorizes the transfer of \$512,100 from Measure AA interest and \$1,887,000 from Measure WW Pleasanton Ridge from Designated for Land Acquisition (CIP229900 BAAI and WP48 respectively)) and \$10,000 from the Barstow Fund grant in the Designated for Land Acquisition account (CIP240000GPI5) to Pleasanton Ridge / Tyler Ranch (CIP2335), as shown on the attached Budget Change form, to be applied towards the purchase of the property and to fund the following costs:

Purchase Price:	\$ 3,468,000
Title Policy and Escrow Fees	7,100
Staff Time	5,000
Demolition of Mobile Home and Outbuildings	55,000
Underground Electrical to Existing House& Minor Upgrades	75,000
Minor Road Grading and Erosion Control	40,000
Fencing	37,000
Solar Pump System for Grazing Water Improvements	<u>22,000</u>
Total	\$ 3,709,100

BE IT FURTHER RESOLVED, that the Board acknowledges the generous grants from the Alameda County Altamont Landfill Open Space Fund in the amount of \$1 million and \$300,000 from DPR's Habitat Conservation Fund to aid in this acquisition; and

BE IT FURTHER RESOLVED, that the Board authorizes the General Manager, pursuant to Government Code Section 51245, to file notices of nonrenewal with the Board of Supervisors of Alameda County for the parcels, or portions of parcels currently subject to Land Conservation Contracts; and

BE IT FURTHER RESOLVED, that the General Manager is hereby authorized and directed, on behalf of the District and in its name, to execute and deliver such documents and to do such acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.

Moved by Director _____, seconded by Director _____ and adopted this 20th day of October 2009 by the following vote:

FOR:

AGAINST:
ABSTAIN:
ABSENT: