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## BOARD EXECUTIVE COMMITTEE

Thursday, November 2, 2017

12:30 p.m.

**EBRPD - Administrative Headquarters  
2950 Peralta Oaks Court  
Oakland, California 94605**

The following agenda items are listed for Committee consideration. In accordance with the Board Operating Guidelines, no official action of the Board will be taken at this meeting; rather, the Committee's purpose shall be to review the listed items and to consider developing recommendations to the Board of Directors.

A copy of the background materials concerning these agenda items, including any material that may have been submitted less than 72 hours before the meeting, is available for inspection on the District's website ([www.ebparks.org](http://www.ebparks.org)), the Headquarters reception desk, and at the meeting.

### Public Comment on Agenda Items

If you wish to testify on an item on the agenda, please complete a speaker's form and submit it to the recording secretary. Your name will be called when the item is announced for discussion.

### Accommodations and Access

District facilities and meetings comply with the Americans with Disabilities Act. If special accommodations are needed for you to participate, please contact the Clerk of the Board at 510-544-2020 as soon as possible, but preferably at least three working days prior to the meeting.

## AGENDA

<u>TIME</u>	<u>ITEM</u>	<u>STATUS</u>	<u>STAFF</u>
12:30 pm	1. Personnel Administrative Manual Update: Vacation Pay-Out	R	Susan Gonzales Debra Auker
1:00 pm	2. Coyote Hills Restoration and Public Access Project Update	I	Chris Barton
1:35 pm	3. Human Resources Policies and Procedures #17 - Lactation Policy	R	Susan Gonzales Kip Walsh
1:50 pm	4. Dog Access Policies in Future Concord Hills Regional Park	R	Brian Holt
2:30 pm	5. Open Forum for Public Comments <i>Individuals wishing to address the Committee on a topic not on the agenda may do so by completing a speaker's form and submitting it to the recording secretary.</i>		
	6. Board Comments		

### Board Executive Committee Members

Beverly Lane (Chair), Dennis Waespi, Ayn Wieskamp  
Whitney Dotson, Alternate  
Robert E. Doyle, Staff Coordinator

R - Recommendation for Future Board Consideration  
I - Information  
D - Discussion

### Future Meeting Dates

<del>January</del> - No Meeting	July 6
February 2	August 7 (Mon)
March 2	September 7
April 6	October 5
May 4	November 2
June 4	December 7

**EAST BAY REGIONAL PARK DISTRICT**

**BOARD EXECUTIVE COMMITTEE**

Meeting of November 2, 2017

TO: Board Executive Committee

FROM: Robert E. Doyle, General Manager

STAFF REPORT  
PREPARED BY: Monica Alvarez-Selles, Benefits Manager

SUBJECT: Personnel Administrative Manual Update: Vacation Pay-Out

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Susan Gonzales, Interim Human Resources Manager, and Debra Auker, Assistant General Manager for Finance & Management Services, will make a presentation on this agenda item.

BACKGROUND

On August 8, 2017, the Board of Directors approved a four (4) year contract for the AFSCME Local 2428 bargaining group with an effective date of April 1, 2017 to March 31, 2021. Human Resources and Finance staff have taken steps to implement the pay and benefit changes. Among these changes were modifications related to vacation pay-outs. The Park District will be implementing similar modifications for all unrepresented employees by amending the Personnel Administrative Manual (PAM) prior to year-end in order to be in compliance with the Internal Revenue Services (IRS).

In previous years, employees had the option to cash-out vacation accrued through the first pay period of December in that same calendar year. The Park District is modifying its current practice to avoid potential tax exposure, based on IRS letter rulings related to “constructive receipt” which could treat vacation payout as taxable income even if not actually received by the employee.

For vacation pay-outs during and after the 2018 calendar year, an employee may submit an “Irrevocable Vacation Pay-Out Election Form” and will have up to two (2) opportunities for an irrevocable vacation pay-out in the following year. The dates available for the pay-out shall be the last full pay period in September and the first pay period in December. The vacation to be cashed out must be earned in the same calendar year in which it is paid out, and it is the responsibility of the employee to ensure that a sufficient balance of vacation hours are available at the time of the pay-out. The Park District will not pay-out more than the employee has accrued. This request must be submitted to Human Resources in December for payouts in the following calendar year. Employees retain the right to have all accrued vacation paid-out at separation or retirement from Park District employment.

For the 2017 calendar year, an employee who wishes not to carry over vacation credits shall be paid out, upon their request, on the first pay period in December. Six (6) and nine (9) month employees shall be eligible for vacation pay-out the last pay period in September for the year

2017 only. The Park District will pay-out vacation at the employee's current wage rate rather than paying out in the future at a higher wage rate than when the vacation was earned. If vacation hours exceed the maximum balances stated in the PAM/MOU, the Park District will pay excess hours in January of each year.

The new MOU language between the EBRPD and AFSCME Local 2428 is below for reference and the proposed draft amendments to the PAM are attached (Attachment A).

New language for the represented employees:

Article 26 – Vacations (from the EBRPD and AFSCME Local 2428 MOU April 1, 2017-March 31, 2021)

**26.4 Payout.**

(a) For the 2017 calendar year, an employee who does not wish to carry-over vacation credits shall be paid for them, upon request, at the first pay period in December. Six and nine month employees shall be eligible for vacation payout the last pay period in September. Within thirty (30) days of Board approval of this 2017-2021 MOU, the District shall inform employees in writing that 2017 is the last calendar year to opt to cash out vacation accrued through the first pay period of December 2017.

(b) For vacation pay-outs during and after the 2018 calendar year, an employee may submit an "Irrevocable Vacation Pay-Out Election Form" to make up to two irrevocable vacation pay-outs the following calendar year. To be effective, the Form must be received by the Human Resources Manager or designee no later than the last business day before December 15th of the year prior to the calendar year in which the employee wishes to pay-out vacation. The amount of vacation requested to be paid out in the following calendar year must be earned in that calendar year before it may be paid out, and requires a sufficient balance of available accrued vacation at the time of the pay-out. It is understood that an employee using vacation shall always use vacation earned in prior years first before using vacation earned in the current year. The dates available for the pay-out on the Election Form shall be the last full pay period in September and the first full pay period in December. This provision shall have no effect on an employee's right to pay-out all his or her accrued vacation at the time of the employee's separation/retirement from District employment.

(c) As part of the District's open enrollment packet each year, the District will provide all employees with a copy of the Irrevocable Vacation Pay-Out Election Form and a reminder of the last business day before December 15th deadline for submission of the Form. The Open Enrollment Notice sent prior to the mailing of the packet shall also include reference to the Election Form and shall be sent to the employee via e-mail and U.S. mail and posted on each worksite Bulletin Board.

(d) Should the IRS through an official circular letter or regulation such that the constructive receipt tax issue concerning vacation cash-out addressed by paragraph (b) above is rendered inapplicable or otherwise not mandated by law, Section 25.4 will be void and the 2013-2017 MOU language on vacation pay-outs shall be reinstated.

(e) As an exception to the irrevocable election requirement set forth in paragraph (b), an employee may cash out vacation in the event of an unforeseen financial emergency where (1) the employee can demonstrate that the employee has a real and immediate unforeseen emergency caused by an event beyond the employee's control, (2) it would result in serious financial hardship

if the cash payment were not made, (3) the amount of the cash payment is limited to the amount necessary to meet the emergency and (4) the District will exercise its discretion to determine whether an emergency exists and the extent of the financial need.

### RECOMMENDATION

Staff requests that the Board Executive Committee review the proposed amendment to the PAM Section 10.F.1. - Payment of Vacation Credits, and forward a recommendation to the full Board of Directors for approval.

### ATTACHMENT

Attachment A – Draft PAM Section 10.5.1 – Payment of Vacation Credits

**SECTION 10: VACATION**

- A. Credits. Vacation credits will accrue for full-time Regular employees at the following rates:
1. One day per month of service during the first five years of continuous service with the District.
  2. One and one quarter days per month during the sixth through the tenth years of continuous service with the District.
  3. One and one-half days per month during the eleventh through fifteenth years of continuous service with the District.
  4. One and three-quarter days per month during the sixteenth through twentieth years of continuous service with the District.
  5. One and three-quarter days per month each year after twenty years of continuous service, plus 1 additional day for each full year of continuous service with the District in excess of twenty years.
  6. The term "month" as used herein, means a month in which the employee is paid by the District more than one-half the work days of the month.
  7. Part-time regular employees accrue vacation on a pro-rata basis.
- B. Use of Vacation Credits
1. Probationary Regular employees shall accumulate vacation credits during their probationary period.
    - a. Confidential employees may use such credits at the completion of their probationary period.
    - b. Management employees may use such credits at the completion of 6 months of service.
  2. In all calendar years following the year of employment, Management employees are required to take at least ten days vacation per year. At least five days of that vacation time shall be consecutive work days.
  3. Vacation credit can be used only after it has been earned.
- C. Carryover: An employee may not accumulate more than the equivalent of the preceding calendar year's earned vacation credits plus twelve additional days. Any further carryover of vacation credits must be approved by the head of the Department and the General Manager on an annual basis. Excess vacation not approved for carryover shall be paid.

## D. Schedule

1. Vacation schedules must be approved in advance by the employee's supervisor.
2. When two or more employees request the same vacation dates, the conflict will be resolved on length of service. However, vacations will be scheduled with due regard for employee preference and the needs of the District.
3. The General Manager reserves the right to limit the annual vacation of an employee to a maximum of two weeks during the period May 1 to September 15 so that all employees may take annual vacation during this period.

E. Holiday: A paid holiday which occurs during an employee's vacation period may be added thereto or to accrued vacation days.

## F. Payment of Vacation Credits

1. Effective during and after the 2018 calendar year, an employee who does not wish to carry over vacation credits may submit an "Irrevocable Vacation Pay-Out Election Form" and use up to two (2) irrevocable vacation pay-out elections in the following calendar year.
  - a) The form must be received by the ~~Chief of Human Resources~~ Manager- Officer or designee no later than the last business day before December ~~31<sup>st</sup>~~ 15<sup>th</sup> for payouts in the following calendar year. The amount of vacation requested for pay-out must be earned in the same calendar year before it is paid in which it is paid out. It is the responsibility of the employee to confirm a sufficient balance is available at the time the vacation is paid out.
  - b) The dates available for the pay-out shall be the last first full pay period in September and the first full pay period in December. This provision shall have no effect on an employee's right to pay-out all his or her accrued vacation at separation or retirement from Park District employment.
  - c) As part of the Park District's open enrollment packet each year, ~~the District will provide all employees with~~ will receive a copy of the Irrevocable Vacation Pay-Out Election Form and a reminder of the deadline set for the last business day before December ~~31<sup>st</sup>~~ 15<sup>th</sup>.
  - d) As an exception to the irrevocable election requirement, in the event of an unforeseen financial emergency where (1) the employee can demonstrate that the employee has a real and immediate unforeseen emergency caused by an event beyond the employee's control, (2) it would result in a serious financial hardship if the cash payment were not made, (3) the amount of the cash payment is limited to the amount necessary to meet the emergency and (4) the Park District will exercise its discretion to determine whether an emergency exists and the extent of the financial need.
  - e) ~~Should the IRS render, through an official circular letter or regulation, the language concerning vacation cash-out as inapplicable or otherwise not mandated by law, the prior language on vacation pay-outs shall be reinstated.~~

~~2. Cash payment of unused vacation shall be made upon retirement or termination~~ [MSO1]-

~~3.2.~~ Vacation credits are paid at the employee's then current salary rate.

G. Work During Vacation - Confidential Employees

1. In emergencies, confidential employees on vacation may be contacted to come to work. In the event an employee works, the regular pay will apply and the vacation day will be canceled and rescheduled at a later date.
2. Should the work day be a normal day off, the work will be paid at one and one-half times the regular rate and vacation days will not be affected.

H. Sickness During Vacation: Should an employee become ill during vacation, the employee may, upon return from vacation, convert the days of illness from vacation use to sick leave use. Such conversion will require the presentation of a Doctor's notice verifying the illness and the duration of the illness.

I. Initial Benefit Hiring Credit: The General Manager may negotiate hiring credit for up to 12 days of vacation for Management and Confidential employees.

J. Management Employees Extra Hours (note: this provision applies only to employees in the District's General Employees Retirement Plan).

1. Management employees will record all extra hours worked in excess of the normal schedule on their time cards. Extra hours will be earned on an hour-for-hour basis up to a maximum of 40 hours in a work week. Management employees may not accrue more than 520 extra hours during the year.
2. On January 1, Management employees will be credited with 40 extra hours of vacation leave as compensation for extra hours worked. Management employees will be credited up to an additional 40 hours of vacation leave for all extra hours worked between 130 and 170 hours during the preceding year. Management employees may choose to have any of the extra hours credited towards years of service for retirement purposes in lieu of vacation leave.
3. Management employees hired or promoted into a Management position during the year will be credited with a pro-rated number of extra vacation hours at the time of hire or promotion.
4. For any Management employee with 20 years or more of District service credit, and at least 1,800 extra hours accrued at the time of retirement, the employee will receive a cash payout for 80 of those hours upon retirement.
5. All extra hours accrued in accordance with this policy that are not converted to vacation leave will be credited towards years of service for the purpose of retirement calculations.

- K. Management Administrative Leave Policy (note: this provision applies only to those employees in the CalPERS retirement plan). For Management Employees under CalPERS Retirement Plan, see Resolution No. 2000-12-256 (Section 26, Appendix E).

**EAST BAY REGIONAL PARK DISTRICT**

**BOARD EXECUTIVE COMMITTEE**

Meeting of November 2, 2017

TO: Board Executive Committee

FROM: Robert E. Doyle, General Manager

STAFF REPORT  
PREPARED BY: Chris Barton, Environmental Program Manager

SUBJECT: Coyote Hills Restoration and Public Access Project Update

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Chris Barton, Environmental Program Manager, will make a presentation on this agenda item.

BACKGROUND

In 2014, the Park District received a donation of a 296-acre parcel (Patterson Ranch) bordering much of the eastern boundary of Coyote Hills Regional Park, expanding the park eastward to Paseo Padre Parkway. Shortly after acquiring the property a portion of the site was leased for organic farming. In September 2016, the Park District purchased a 10-acre parcel contiguous to the north of the Patterson Ranch parcel (Church Parcel). These newly acquired properties are currently in landbank status and present opportunities for improving public access and restoring habitat.

In January 2017, the Park District initiated a study to pursue developing public access and habitat restoration opportunities, and to amend the park land use plan to include the newly acquired lands. The project team completed technical studies and an analysis of existing conditions, constraints and opportunities. The initial findings were presented to the Board Executive Committee on July 6, 2017, and a public workshop was held on August 15, 2017.

Staff has developed three program options based on site studies, public feedback, and input from Park District staff and local agencies. Staff will review these program options and provide a project update to the Board Executive Committee.

RECOMMENDATION

None. This is an informational item.

**EAST BAY REGIONAL PARK DISTRICT**

**BOARD EXECUTIVE COMMITTEE**

Meeting of November 2, 2017

TO: Board Executive Committee

FROM: Robert E. Doyle, General Manager

STAFF REPORT  
PREPARED BY: Monica Alvarez-Selles, Benefits Manager

SUBJECT: Human Resources Policies and Procedures #17 - Lactation Policy

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Susan Gonzales, Interim Human Resources Manager, and Kip Walsh, Chief Human Resources Officer, will make a presentation on this agenda item.

BACKGROUND

The Park District currently does not have a Lactation Procedure in place that could help guide supervisors when dealing with requests for lactation break accommodation. Rather than restate the requirements outlined in the State of California Labor Code § 1030-1033, the Park District is recommending outlining the procedures that supervisors and employees must abide by when requesting a lactation break accommodation as required by state and federal requirements.

The procedures outline the employer and employee requirements when a request is submitted and explains the expectation the employer must comply with when locating a lactation facility. The accommodation process will be overseen by the Benefits Manager in coordination with the employee and supervisor.

RECOMMENDATION

Staff recommends that the Board Executive Committee approve the Human Resources Policies and Procedures #17 (Attachment A) in draft form for full consideration by the Board of Directors.

ATTACHMENT

Attachment A: Draft Human Resources Policies and Procedures #17

**OVERVIEW**

Introduction This document contains the East Bay Regional Park District’s procedure on how to address lactation accommodation requests from employees.

In this policy This policy procedure covers the following topics:

<b>Topic</b>	<b>See Page</b>
Accommodation Procedure	I
Lactation Facilities	I

**PURPOSE**

To continue to promote a family-friendly work environment, the East Bay Regional Park District (Park District) will take every effort to provide reasonable accommodations to nursing mothers requesting lactation breaks as required by federal and state law.

The State of California Labor Code § 1030-1033 requires an employer to:

Provide a reasonable amount of break time to accommodate an employee wishing to express milk for their infant child. Break time, if possible, will run concurrently with any rest period already provided to the employee. Any amount of time beyond predesignated breaks will need to be coordinated between employee and supervisor and will be unpaid.

**ACCOMMODATION PROCEDURE**

A nursing mother who intends to utilize lactation breaks should discuss her intentions with her supervisor no later than one week prior to her return to work date. A supervisor who receives a lactation accommodation request will work closely with the Benefits Manager to help identify the most appropriate response to the employee’s request. Break schedules should be based on the needs of a nursing mother and the operational considerations of the Park District.

Supervisors are encouraged to allow flexible scheduling to accommodate lactation breaks, with the understanding that the proposed schedule will not cause serious disruption to the department’s business operational needs. No negative employment actions will be taken when requests for an accommodation has been made pursuant to federal and state statutes.

**LACTATION FACILITIES**

The Park District will make reasonable efforts to provide space shielded from view, with access to a table, an electric outlet, and a lockable door. Such room or place should be in proximity to the employee's work area and shall not include a bathroom or toilet stall.

**EAST BAY REGIONAL PARK DISTRICT**

**BOARD EXECUTIVE COMMITTEE**

Meeting of November 2, 2017

TO: Board Executive Committee

FROM: Robert E. Doyle, General Manager

STAFF REPORT  
PREPARED BY: Brian Holt, Principal Planner

SUBJECT: Dog Access Policies in Future Concord Hills Regional Park

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Brian Holt, Principal Planner, will make a presentation on this agenda item.

BACKGROUND

The 5,028-acre Inland Area of the Concord Naval Weapons Station was officially closed by the Base Closure and Realignment Commission (BRAC) in November 2005. The City of Concord (City), acting as the Local Reuse Authority, initiated a multi-year community planning process culminating in the adoption of a Reuse Plan in 2010. This plan was further refined and integrated into the City's General Plan through the adoption of the Concord Reuse Project Area Plan in January 2012.

The adopted Area Plan provides for development of over 12,200 new housing units, over 6.1 million square feet of commercial floor space, and a variety of community facilities and city parks. The proposed development would primarily be clustered on the western portion of the former base. The adopted Area Plan also includes a new regional park of 2,537 acres located on the eastern portion of the site to be conveyed to the District through a Public Benefit Conveyance.

The Park District has worked closely with the City, U.S. Navy, and U.S. Fish and Wildlife Service through the consultation process required under Section 7 of the Endangered Species Act. A Biologic Opinion was completed in July 2017, that provides the City with a significant portion of their required mitigation through on-site conservation within the future regional park. The District will be the long-term manager of this conservation area and required to ensure the protection of habitat for special status species including California Red Legged Frog and California Tiger Salamander.

The Park District is currently working with the City and U.S. Fish and Wildlife Service to complete a Long-Term Management Plan (LTMP) for the conservation area within the future regional park. The conditions of the Biologic Opinion and the LTMP restrict recreational use within certain zones that have been identified in the current preferred alternative of the Land Use Plan that is currently being developed. Conflicts with these recreational use restrictions, the urban nature of the park, and the requirement to protect special status species habitat in perpetuity requires that domestic animals, including dogs, will need to be leashed throughout the regional park.

The Park District's 2013 *Master Plan* establishes a number of policies regarding Natural Resource Management and Public Access. Natural Resource Management Policy 9 states that the "District will conserve and protect native animal species and enhance their habitats to maintain viable wildlife populations within balanced ecosystems. Non-native and feral animals will be managed to minimize conflicts with native wildlife species." Further, Planning for Regional Trails and Parks Policy 13 states that "Land Use Plans will identify future resource management strategies and recreational use for entire parks and establish appropriate Land Use Designations."

### RECOMMENDATION

Staff recommends, given the long-term conflicts between the requirements of the Biologic Opinion and the Park District's 2013 *Master Plan* direction to develop plans that provide for resource protection, that the Board Executive Committee provide direction to staff to include a policy within the Concord Hills Regional Park Land Use Plan that requires dogs to be kept on-leash throughout the regional park.