

**COUNTY OF SAN MATEO**

**Parks and Recreation Commission**

**Thursday, August 4, 2016**

**4:00 p.m.**

**Board of Supervisors' Chambers  
400 County Center, Redwood City**

**MINUTES**

Chair Marico Enriquez called the meeting to order at 4:00 p.m.

**1. Pledge of Allegiance**

**2. Roll Call**

Commissioners Present: Marico Enriquez (Chair), Neil Merrilees, Meda Okelo (Vice Chair)

Commissioners Absent: Barbara Bonilla, Michael Cooney, Kevin Huo (Youth)

Staff Present: Marlene Finley, Parks Director; Sarah Birkeland, Assistant Parks Director; Brenda Bennett, Executive Secretary; Scott Lombardi, Parks Superintendent; Ed Hallett, Harbormaster; Carla Schoof, Community Programs; Nirit Eriksson, Deputy County Counsel; David Silberman, Chief Deputy County Counsel

**3. Public Comment**

There was none.

**4. Training**

4.1 Brown Act Training – Nirit Eriksson, Deputy County Counsel

Ms. Eriksson reviewed the Brown Act, California's open meeting law for public agencies, with the Commission, highlighting that the Act's purpose is to provide transparency and allow for public participation.

Ms. Eriksson's PowerPoint presentation handout is attached to these minutes as part of the record. Topics covered included:

- *Who Does the Brown Act Apply to?*
- *What is Considered a Meeting?*
- *What Does the Agenda Have to Say?*
- *What are Individual Members of the Public's Rights?*
- *What are the Consequences for Violating the Brown Act?*

Chair Enriquez asked Ms. Eriksson to clarify the difference between a regular and a

special meeting. Ms. Eriksson said that any meeting that occurs at a time other than the regularly scheduled time is a special meeting and must comply with the rules for a special meeting.

Commissioner Okelo asked if it were possible to continue a regular meeting to a different date [than the next regularly scheduled meeting]. Ms. Eriksson said she would research that with staff, noting the Act has provisions for what constitutes an emergency meeting.

## **5. Parks Director's Report**

In addition to the written report, Director Finley provided a visual presentation highlighting the *Girls to Women* event in Huddart Park for approximately 35 girls from East Palo Alto with transportation provided by the San Mateo County Parks Foundation and tours led by docents from the Friends of Huddart and Wunderlich; the Divas' Run at Coyote Point with 1,500 runners, and the August Take A Hike at Junipero Serra Park 65 participants. She reported that 1,500 girls participated in the annual Girl Scout day camping at Huddart Park and with improved notifications to the community about the associated transport buses, no complaints about those were received. Additional highlights included the Park Shuttle program progress; butterfly monitoring on San Bruno Mountain, Marbled Murrelet surveys at Pescadero Creek Park, Student Conservation Association GIS crews, and the abundance of humpback whales visible from the coast at Pillar Point Bluff, Mirada West, and Devil's Slide Trail.

Replying to questions from Commissioner Okelo, Parks Superintendent Lombardi said that vandalism was not escalating in the parks system and that staff cleans any vandalized buildings or benches quickly, which deters further vandalism. Ms. Finley said they were collaborating with other park and open space agencies to set up a grid system to monitor movement, populations, seasonality of wildlife in the parks and across the Peninsula using wildlife cameras. She said they were also examining the role of citizen scientists in helping to download and analyze the data.

## **6. Action Items**

### **6.1 Review and Approval of Minutes of June 2, 2016 Meeting**

Action: M/S Merrilees/Okelo moved to approve the minutes of the June 2, 2016 meeting; passes 3-0.

### **6.2. Appoint Members to the Dog Management in San Mateo County Parks Committee**

Ms. Finley introduced Nic Erridge, Pescadero Municipal Advisory Council; Christine Corwin, Coastside Dog Owners Group; and Faye Brophy, Equestrian Trails Advocacy Council, individuals present that were being nominated as members. She proposed the appointment of Park Ranger Darrick Emil as a voting member of the Committee.

Action: M/S Merrilees/Okelo to appoint the 11 recommended individuals to the Dog Management in San Mateo County Parks Committee; passes 3-0.

**6.3 Review and Recommend Approval to the Board of Supervisors of Funding under the County's Mini-park Policy to the Fair Oaks Beautification Association for Operating Support for a Playground Located at the Intersection of Fair Oaks Avenue and Edison Way and a Pocket Park Located at the Intersection of Bay Road and 18<sup>th</sup> Avenue in the Amount of \$10,000 Annually for Three Years and Improvements to the Basketball Court at the Playground in the Amount of \$15,000 for a Total of \$45,000**

Staff Comment: Director Finley noted the Commission had the opportunity to tour the Fair Oaks Beautification Association's (FOBA) proposed mini-park sites prior to the June 2 Commission meeting and heard a presentation on FOBA's mini-park proposal at the June 2 meeting.

Questions of Staff: Vice Chair Okelo asked about the applicant's compliance with non-profit tax filing and requested more information on FOBA's annual budget. Chair Enriquez said the Commission received information on the budget at the last Commission meeting.

Public Comment:

- Kyle Barriger, Board Member, FOBA, said FOBA's annual budget runs between \$10,000 to \$20,000. He said the year they built the pocket park that their budget was approximately \$40,000. He said FOBA was founded in 1996 as a 501(c)(3).

In response to questions from Commissioner Okelo, Mr. Barriger said that filing of a Form 990 was only required if FOBA's annual revenue limit was exceeded, which to his knowledge had not occurred for a number of years. He said their budget for the 2016 fiscal year was approximately \$15,000, of which about \$5,000 to \$6,000 was fund raised in the community. He said the \$10,000 annually that FOBA was seeking would provide fully funded maintenance for the pocket park and the playground over the next three years, taking into account inflation increases.

- Laura Caplan, Board Member, FOBA, concurred with Ms. Finley that awarding the requested funding was an excellent investment in the local community, which has been underserved in regard to parks.

Commission Comment: Commissioner Merrilees thanked the FOBA members for inviting the Commission to the playground and commended them for their efforts to maintain the facilities. He proposed reviewing the playground funding after three years.

Replying to Chair Enriquez, Mr. Barriger said they intended to replace the cracked asphalt surface of the basketball court with a sport court surface.

Commissioner Okelo said he could support the funding with conditions. He suggested as this was the first proposal received under the County's Mini-park Policy that the applicant should provide a copy of their most recently adopted annual budget, that

\$15,000 for the basketball court renovation and \$10,000 for one year maintenance funding be granted, and that FOBA could reapply for funding the next year. He said he hoped that this project would stimulate other local community groups to engage with the County in a similar way.

Chair Enriquez said that he hoped this project would be the beginning of an ongoing partnership between local communities and the County.

Commission Merrilees moved to recommend to the Board of Supervisors approval of funding under the County's Mini-park Policy to the Fair Oaks Beautification Association for operating support for a playground located at the intersection of Fair Oaks Avenue and Edison Way and a pocket park located at the intersection of Bay Road and 18<sup>th</sup> Avenue in the amount of \$10,000 annually for three years and improvements to the basketball court at the playground in the amount of \$15,000 for a total of \$45,000. Chair Enriquez seconded the motion.

Commissioner Okelo asked to amend the motion to provide maintenance funding for one year only. Commissioner Merrilees as the maker of the motion declined the amendment, noting three years was a short-term commitment. He suggested FOBA could provide more information about its budget. Chair Enriquez restated that he was in favor of initiating the partnership between FOBA and County.

Recognized by the Chair, Mr. Barriger said the board members for the 20-year organization all have full-time jobs outside of FOBA. He stated that the requested budget information was in FOBA's initial proposal and preparing a new funding proposal each year would be time intensive.

Replying to Commissioner Okelo's restated desired amendment to the motion on the table, Mr. Barriger suggested the County should update its guidelines for applications under the Mini-park Policy as FOBA had followed the process as currently written in the Policy when they applied.

On the call for the vote, Commissioners Merrilees and Enriquez voted in favor of the motion on the table. Commissioner Okelo, noting his desire for an amendment and if it was not accepted, said he would not vote. He said the Brown Act said all votes had to be recorded and suggested that if he did not vote there was no pass/fail of the motion.

Chief Deputy Counsel David Silberman joined the meeting to address Commissioner Okelo's questions about amending a motion and what resulted if a Commissioner did not vote. He said that a motion might be amended if the makers of the motion and second accepted the amendment. He said in this instance the motion/second makers had not accepted the amendment. He said if a Commissioner did not vote or abstain from the vote that the act of not voting was considered a nay vote to the motion on the table. He said the vote could be counted as an abstention or no vote.

Action: M/S Merrilees/Enriquez to recommend to the Board of Supervisors approval of funding under the County's Mini-park Policy to the Fair Oaks Beautification Association for operating support for a playground located at the intersection of Fair Oaks Avenue and Edison Way and a pocket park located at the intersection of Bay Road and 18<sup>th</sup> Avenue in the amount of \$10,000 annually for three years and improvements to the basketball court at the playground in the amount of \$15,000 for a total of \$45,000; passes 2-1 with Commissioner Okelo opposed.

**6.4 Review and Recommend Approval to the Board of Supervisors of Funding to the Coastside Fishing Foundation for the 2016 Chinook Salmon Smolt Net Pen Acclimation Project in the Amount of \$10,000 from the Parks Department's California Department of Fish and Wildlife Propagation Fund**

Staff Comment: Director Finley said there were no additions to the staff report.

Applicant Comment: Mr. Doug Laughlin, Board Member, Coastside Fishing Foundation and Coastside Fishing Club, thanked the Commission for its previous support of the acclimation project. Replying to Commission questions, Mr. Laughlin said their last release was the end of May for this year for a total of 480,000 released. He said the California Department of Fish and Wildlife monitors the project closely.

There was no public comment.

Action: M/S Okelo/Enriquez to recommend approval to the Board of Supervisors of funding to the Coastside Fishing Foundation for the 2016 Chinook Salmon Smolt Net Pen Acclimation Project in the amount of \$10,000 from the Parks Department's California Department of Fish and Wildlife Propagation Fund; passes 3-0.

**7. Parks Foundation Executive Director's Report**

Parks Foundation Executive Director Michele Beasley highlighted that the Foundation's most recent newsletter focused on the San Bruno Mountain Habitat Conservation Plan; several upcoming events in August, including a fundraiser; and the Foundation's donation to the County of \$84,000 scheduled for the Board of Supervisors' August 9 meeting that would provide funds for signage at two County parks, Student Conservation Association crews, the Parks Shuttle Program, Bicycle Sunday and a memorial bench..

**8. Commissioner Reports**

Commissioner Merrilees noted his request that the San Mateo County Harbor District provide volleyball courts at the Harbor property was moving ahead.

Chair Enriquez said he would not be available for the October 6 meeting and requested that Commissioner Okelo act as Chair for that meeting.

Ms. Finley said parks visitor survey was completed, and Dr. Nina Roberts and Dr. Patrick Tierney would be presenting the survey results at the October meeting

**9. Adjournment**

Action: M/S Merrilees/Okelo to adjourn; passes 3-0.

Meeting was adjourned at 5:40 p.m.

	<b>Brown Act Training for the Parks and Recreation Commission</b>
	August 4, 2016 Office of the County Counsel

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	<b>Ethical Value to Government Transparency Laws</b>
	<p>1. <i>Trustworthiness:</i> The public trusts a process that it can observe.</p> <p>2. <i>Respect:</i> All perspectives have a right to be heard and considered in the public decision making process.</p> <p><small>03/2016</small> <span style="float: right;">1</span></p>

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	<b>The Heart of Government Transparency Laws</b>
	<p>The conduct of the public business IS the public's business</p> <p><small>03/2016</small> <span style="float: right;">3</span></p>

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	<ul style="list-style-type: none"> <li>■ "School trustees call themselves into question with reprimand"</li> </ul>
	<ul style="list-style-type: none"> <li>■ County Broke Law on Hospital; Supervisors' secret talks on closing King/Drew trauma unit were illegal, Dist. Atty. Cooley says</li> <li>■ "Student Senate violates law with secret ballots             <ul style="list-style-type: none"> <li>- Anonymous votes used by members, candidates suffer"</li> </ul> </li> </ul>

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	<p align="center"><b>Brown Act- Legislative Intent (cont'd)</b></p>
	<p>"The people of this State <b>do not yield their sovereignty</b> to the agencies which serve them. The people, in delegating authority, <b>do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.</b> The people <b>insist on remaining informed</b> so that they retain control over the instruments they have created."</p>

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	<p align="center"><b>Brown Act-Six Categories:</b></p>
	<ol style="list-style-type: none"> <li>1. To Whom Does it Apply?</li> <li>2. What is a Meeting?</li> <li>3. The Agenda Requirements</li> <li>4. The Public's Rights</li> <li>5. Closed Sessions</li> <li>6. Consequences for Violations</li> </ol>

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	<h2>1. To Whom Does it Apply?</h2>
	<ul style="list-style-type: none"> <li>■ Applies to "legislative bodies"</li> <li>■ "Legislative body" means:             <ul style="list-style-type: none"> <li>(a) governing board of local agency</li> <li>(b) governing board committees created by formal action of the governing board</li> </ul> </li> <li>■ Does not include individual decision makers e.g. department heads</li> </ul>
09/2016	7

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	<h2>Committees NOT subject to Brown Act</h2>
	<ul style="list-style-type: none"> <li>■ Ad hoc advisory committees made up solely of governing board members and constituting less than a quorum             <ul style="list-style-type: none"> <li>- No continuing subject matter jurisdiction</li> <li>- Limited term</li> </ul> </li> <li>■ Committees not formed by act of legislative body</li> </ul>
09/2016	8

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	<h2>2. What is a meeting?</h2>
	<ul style="list-style-type: none"> <li>■ Any congregation of a majority of the members of the legislative body at the same time and place to hear, discuss or deliberate on any matters within its jurisdiction.</li> </ul> <p><b>What this means:</b> A majority may not consult outside an agency-convened meeting.</p>
09/2016	9

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## Brown Act Illegal Meetings

A majority of members may not "develop a concurrence as to action" on business through serial meetings, intermediaries, communication, or other means of subterfuge.

8/2/2016

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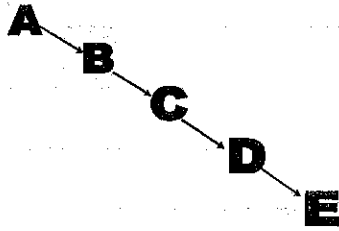
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## Illegal Meetings (cont'd)

Basic "Serial" Meeting (5 members)



8/2/2016

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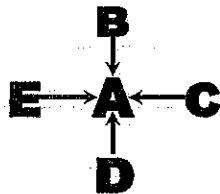
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## Illegal Meetings (cont'd)

Intermediary or "hub" meetings (5-members)



8/2/2016

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## What is NOT a meeting?

- Individual contacts between board members and another person
- Majority of board at conference open to public
- Majority of board at social or ceremonial occasions (as long as majority does not discuss board business)
- Majority of board at public meeting on topic of local community concern

8/2/2015

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## 3. Agenda Requirement

- Regular meeting- Agenda posted 72 hours in advance
- Special meeting- Agenda posted 24 hours in advance
- Limited exceptions where business not on the agenda may be transacted
- Must contain a brief description of every item to be discussed
- Closed session items must be listed
- Must include time for public comment

8/2/2015

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## No Consideration of Matters Not Properly Agendized Unless

- Majority vote determines emergency exists
- Two-thirds vote determines need to take immediate action if the matter came to agency's attention after agenda posted

8/2/2015

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	<h2>4. Rights of Public</h2>
	<ul style="list-style-type: none"> <li>■ Right to be notified of items on agenda</li> <li>■ Right to attend without identifying oneself</li> <li>■ Right to record the meeting</li> <li>■ Right to speak before or during consideration of an item</li> <li>■ Right to see Board materials</li> <li>■ Right to say anything, even if unrelated to agency business</li> </ul>
	<small>8/3/2016</small> <span style="float: right;"><small>16</small></span>

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	<h2>Limited Circumstances Where Boards and Commissions May Speak To Items NOT On The Agenda</h2>
	<ul style="list-style-type: none"> <li>■ Brief response to statements or questions</li> <li>■ Brief announcement or report on own activities</li> <li>■ Ask questions for clarification</li> <li>■ Refer to staff for information</li> <li>■ Request staff to report back</li> <li>■ Direct staff to place matter on future agenda</li> </ul>
	<small>8/3/2016</small> <span style="float: right;"><small>17</small></span>

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	<h2>5. Closed Session</h2>
	<ul style="list-style-type: none"> <li>■ <b>Allowed:</b> Litigation, personnel, real property, labor negotiations</li> <li>■ Must report out in open session "action taken"</li> </ul>
	<small>8/3/2016</small> <span style="float: right;"><small>18</small></span>

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## Announcing The Votes

- New requirement began in 2014

8/2/2016

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## 6. Consequences of Brown Act Violations

- Lawsuit brought by the DA or any interested persons
- Violations may be stopped by civil lawsuit
- Some actions, if not "cured", may be declared void
- Criminal sanctions for intentional violations (up to 6 months in jail/\$1,000 fine)
- Attorney's fees

8/2/2016

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