



CITY COUNCIL AGENDA REPORT

Meeting Date: February 20, 2025

From: Jeremy Dennis, City Manager

Subject: Use of Development Mitigation Funds/Development Impact Fees to Support Sierra Point Open Space Opportunities – Parcel R

Community Goal/Result

Community Building

Purpose

Develop the City's public spaces for community interactions, enhance connectivity, and provide additional opportunities for recreation

Recommendation

Staff recommend that the City Council provide direction for the use of the remaining development mitigation funds/development impact fees designated for park planning, including improvements, at Sierra Point

Background

In March 1984, the City and Sierra Point LLC entered into a development agreement that included building a restaurant and other facilities at what is commonly referred to as Parcel R, located at 400 Sierra Point Parkway (Attachment 1). Parcel R is owned by the City and was leased to the developer. That agreement was restructured in June 2012 as the developer pursued a development at property located at 3000-3500 Marina Boulevard. As part of a restructuring of this development agreement, the developer terminated its leasehold interest in Parcel R. As part of that transaction, the City accepted mitigation funds from the developer toward park planning at Parcel R and adjoining areas. These funds totaled \$527,901.

A different agreement with the successor to Sierra Point LLC (Healthpeak) provided an additional \$1.5 million towards park planning for Parcel R and other Sierra Point recreational improvements.

Master planning for the site was awarded by contract in 2022. A council subcommittee was formed to make recommendations to the full Council concerning master planning for the site. Subsequent Council discussions on the matter, including a Council meeting on September 21, 2023, resulted in a pause on further developing a recreational amenity at the site, with some of the funds being reallocated to sea level rise studies, which Council reviewed at its December 4, 2024 meeting.

Discussion

As set forth above, the City has received a total of \$2,027,901 toward park planning for Parcel R and adjoining areas. Of that amount:

- \$199,758 allocated to support recreation amenity planning for Sierra Point recreational amenity
 - \$118,932 has been spent
 - \$80,827 encumbered as part of that project.
- \$7,819 spent as part of the Parcel R transfer to the City
- \$85,008 spent for embankment picnic area improvements and backflow device installation
- \$22,765 spent for the recent sea level rise study

\$1,906,916 - Total Remaining Funds (as of December 2024)

The \$1.5 million received from Healthpeak is subject to Mitigation Fee Act provisions as it was negotiated outside a development agreement. As such, these funds must be spent within five fiscal years from the time the fee was received (August 2020), although an extension of time to spend the funds may be permitted as detailed below. Otherwise, because these funds were received in FY 2020/21, they would need to be spent or allocated to a project by the end of FY 2025/26 or be returned to the developer.

The remainder of the funds received from Sierra Point LLC, totaling \$328,143 (not including \$80,827 encumbered as part of the initial consultant efforts for Parcel R), is not subject to the Mitigation Fee Act, and may be spent outside the timeline described in the previous paragraph.

Council Direction

The Council may direct staff in the following ways:

1. Provide direction on the expenditure of all the remaining funds
2. Provide direction on the expenditure of the \$1.5 million subject to the Mitigation Fee Act.

Should the Council wish to continue efforts at Parcel R related to a recreational amenity, staff will work with the Sierra Point Park Parkway & Open Space Subcommittee to discuss the matter. Prior to staff meeting with the Subcommittee, Council will be engaged to provide feedback and guidance to the Subcommittee.

Use and Retention of the \$1.5 Million

As stated above, in order to prevent the \$1.5 million being returned to the developer, those funds must be spent or allocated by June 30, 2026, or findings made to extend the time to spend the funds. Those findings are:

1. Identify the purpose to which the fee will be utilized
2. Demonstrate a reasonable relationship between the fee and the purpose for which it is to be charged
3. Identify all sources and amounts of funding anticipated to complete financing the public facility for which the fee was imposed, and
4. Designate the approximate date(s) on which the funding discussed above is expected to be received.

If all those findings, based on substantial evidence, can be made, the unspent funds may be retained, i.e., not returned to the developer, subject to the annual reporting and further findings five years thereafter if unspent funds remain.

Such findings do not need to be made at this time. In connection with the AB 1600 annual report in FY 2025-26 and based on direction Council provides as to park planning for Parcel R, staff at that time will make a recommendation as to whether the time frame to spend such funds should be extended.

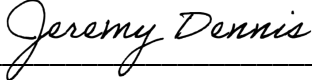
It is worth noting that over the next 16 months, corresponding to the end of the five year expenditure requirements detailed above, the City will be involved in a variety of complex and significant projects that will occupy much of the staff's time, which should be considered relating whether to extend the time to spend the fees subject to the Mitigation Fee Act.

Fiscal Impact

It is not known at this time what the fiscal impact may be, as it is contingent on Council direction.

Attachments

1. Photos of Site
2. Minutes, September 21, 2023 meeting



Jeremy Dennis, City Manager

Attachment 1

Photos of Site



EXISTING SITE CONDITIONS



- ~~L. Approve Response to the 2022-2023 Grand Jury Report: "Bike Safety in San Mateo County: Making Cycling Safer in the County"~~
- ~~M. Adopt an Ordinance, Waiving Second Reading, Repealing Chapter 8.44 of the Brisbane Municipal Code Enacting a New Chapter 8.44 to the Brisbane Municipal Code to Clarify Existing Definitions and to Enact Additional Requirements for Tobacco Retailer Permits, and Finding that No Further Environmental Review is Required Concerning this Ordinance~~
- ~~N. Adopt Resolution Establishing the Business License Tax on Recycling Establishments for Fiscal Year 2023/24~~
- ~~O. Adopt a Resolution Authorizing Submission of Applications for all CalRecycle Grants and Payment Programs for which City of Brisbane is Eligible~~

~~Councilmember O'Connell made a motion, seconded by Councilmember Cunningham, to approve Consent Calendar Items E, F, and H M and O. The motion passed unanimously by all present.~~

~~Ayes: Councilmembers Cunningham, Lentz, Mackin, O'Connell and Mayor Davis~~

~~Noes: None~~

~~Absent: None~~

~~Abstain: None~~

~~Mayor Davis recused herself from voting on Consent Calendar Item N. Councilmember Mackin made a motion, seconded by Councilmember Cunningham, to approve Consent Calendar Item N. The motion passed unanimously by all present.~~

~~Ayes: Councilmembers Cunningham, Lentz, Mackin, and Mayor Pro Tempore O'Connell~~

~~Noes: None~~

~~Absent: None~~

~~Abstain: None~~

~~Recused: Mayor Davis~~

OLD BUSINESS

P. Revisit Sierra Point Open Space and Parks Process

Parks and Recreation Director Leek is seeking direction from Council regarding guidance on next steps in the Sierra Point Open Space and Parks Process.

After Council questions, public comments were made by the following members of the public:

Nancy Lacsamana commented on making the Bay Trail a place to visit, picnic, bike, walk, with a clear outlook on sea level rise.

Ron Davis (read by Michele Salmon) wrote that a community building like the Mission Blue Center is more suitable for the community than a park.

Michele Salmon commented that the City needs to take a pause. The land is continuing to subside. We need to direct resources not on a park but on the boat area as well as the land area of the Marina.

Mea Christie could make the site more appealing and connected to town. Addressing the sea level rise would be the bare minimum.

Linda Dettmer (read by Michele Salmon) commented that a large and beautiful park will do nothing to address our most pressing issues. I appeal to the sensibility of the entire council to do the right thing and forego the impracticality of a

large park project.

Michele Salmon invited the larger community to be engaged and attend upcoming events in the Marina.

After Council discussion, Council directed staff to use funds to finance a Sea Level Rise Study in the Sierra Point site and find a consultant to do the work.

NEW BUSINESS

~~Q. Consider Introduction of an Ordinance, Waiving First Reading, Concerning the Timing of the Construction of Off Site Improvements~~

~~(This Ordinance is exempt from review under the California Environmental Quality Act (CEQA) because it is not a project. CEQA Guidelines section, 15378 (b)(2))~~

~~City Engineer Breault reported that the Municipal Code currently does not have provisions that would require off site work to be completed before onsite work begins. Staff has drafted the ordinance the purpose of which is to eliminate or substantially reduce neighborhood concerns,~~

~~After brief Council questions and no public comment, Councilmember Cunningham made a motion, seconded by Councilmember Cunningham, to introduce an Ordinance, Waiving First Reading, Concerning the Timing of the Construction of Off Site Improvements. The motion passed unanimously by all present.~~

~~Ayes: Councilmembers Cunningham, Lentz, Mackin, O'Connell and Mayor Davis~~

~~Noes: None~~

~~Absent: None~~

~~Abstain: None~~

STAFF REPORTS

~~R. City Manager's Report on Upcoming Activities~~

~~City Manager Holstine reported on the latest City news and events.~~

MAYOR/COUNCIL MATTERS

~~S. Review City Council Meeting Schedule and Proposed Meeting on December 14, 2023~~

~~City Clerk Padilla will confirm with Councilmember Cunningham about her availability to meet on December 14, 2023.~~

~~T. Countywide Assignments and Subcommittee Reports~~

~~Council reported on their subcommittee activities and countywide assignments.~~

~~U. Written Communications~~

~~Written Correspondence was received from Steve Kerekes on September 10, 2023 regarding Signage to protect dogs.~~

~~dwelling unit complies with the safety requirements. The motion was carried unanimously by all present.~~

~~Ayes: Councilmembers Davis, Kern, Mackin, O'Connell and Mayor Lentz~~

~~Noes: None~~

~~Abstain: None~~

~~Absent: None~~

~~AWARDS AND PRESENTATIONS~~

~~H. Swear In Newly Appointed Commissioners and Committee Members~~

~~City Clerk Padilla administered the oath of office for the following newly appointed commissioners and committee members:~~

- ~~• Cristian Cabrera Complete Streets Safety Committee, 1 term ending January 2026~~
- ~~• Raymond Liu Complete Streets Safety Committee, 1 term ending January 2029~~
- ~~• Juli Armstrong Open Space & Ecology Committee, 1 term ending January 2029~~
- ~~• Anna Dennis Inclusion, Diversity, Equity, and Accountability (IDEA) Committee, 1 term ending January 2026~~
- ~~• Masha Kohn Inclusion, Diversity, Equity, and Accountability (IDEA) Committee, 1 term ending January 2027~~
- ~~• Maria Marc Inclusion, Diversity, Equity, and Accountability (IDEA) Committee, 1 term ending January 2027~~
- ~~• Parks and Recreation Commission~~
- ~~• Byron Anderson Parks and Recreation Commission, 1 term ending January 2029~~
- ~~• Leesa Greenlee Parks and Recreation Commission, 1 term ending January 2029~~

~~The following appointed members will be sworn in at a later date by City Clerk Padilla:~~

- ~~• Julie Sims Parks and Recreation Commission, 1 term ending January 2029~~
- ~~• Barbara Ebel Open Space and Ecology Committee, 1 term ending January 2026~~
- ~~• Rohendra Atapattu Open Space and Ecology Committee, 1 term ending January 2029~~

NEW BUSINESS

I. Use of Development Mitigation Funds/Development Impact Fees to Support Sierra Point Open Space Opportunities – Parcel R

(Staff recommend that the City Council provide direction for the use of the remaining development mitigation funds/development impact fees designated for park planning, including improvements, at Sierra Point)

City Manager Dennis reported that the City has received a total of \$2,027,901 toward park planning for Parcel R and adjoining areas. As of December 2024, the City has \$1,906,916 total remaining in these funds. The \$1.5 million received from Healthpeak is subject to the Mitigation Fee Act provisions as it was negotiated outside a development agreement. As such, these funds must be spent within five fiscal years from the time the fee was received (August 2020), although an extension of time to spend the funds may be permitted in order to prevent the \$1.5 million being returned to the developer, those funds must be spent or allocated by June 30, 2026, or findings made to extend the time to spend the funds.

After Council questions of staff, Michele Salmon advocated to take care of serious business, such as, a potable water supply to the Marina and fixing facilities, before Council considers recreation. Kim Follien commented that she is concerned and feels betrayed since the community worked hard and provided feedback to use funds for a park.

After Council discussion, Council provided direction to staff to call a future meeting of the Sierra Point Park & Open Subcommittee of the City Council to discuss improvements to the City's current recreational infrastructure/public amenity at Sierra Point (at and adjacent to "Parcel R"), using funds set aside in two separate agreements with developers for projects at Sierra Point. The Subcommittee will return to the Council at a future meeting with recommendations.

~~STAFF REPORTS~~

~~J. City Manager's Report City Updates and Upcoming Activities~~

~~City Manager Dennis reported on the latest City new and upcoming City activities.~~

~~MAYOR/COUNCIL MATTERS~~

~~K. Countywide Assignments and Subcommittee Reports~~

~~i. Report Out on Subcommittee Meetings~~

~~Councilmembers reported out on their county assignments and subcommittee meetings.~~

~~ii. Upcoming Subcommittee Meetings~~

~~City Manager reported out on the following upcoming subcommittee meetings and the topics being considered:~~

- ~~• Age Friendly~~
- ~~• Communications, Outreach & Engagement Subcommittee~~
- ~~• Economic Development~~
- ~~• Facilities~~
- ~~• School 2X2~~
- ~~• Sea Level Rise~~
- ~~• Quarry~~

~~L. Written Communications~~

~~Written communication was received from the following members of the public:~~

~~Pera (02-15-2025) Proposed Warehouse Project~~

~~McCarroll (02-17-2025) No on Quarry~~

~~Barnes (02-19-2025) 2-20-2025 Council Mtg Agenda Item 1~~

~~Riedell (02-14-2025) Correcting Public Record of Letter Dated 3-18-2024~~

~~ORAL COMMUNICATIONS NO. 2~~

~~Elaine Straw suggested having a subcommittee to address issues concerning the Ridge such as repairing of~~