

Memorandum

To : The Conservancy
The Advisory Committee

Date: January 7, 2013

From : 
Joseph T. Edmiston, FAICP, Hon. ASLA, Executive Director

Subject: **Agenda Item 15: Consideration of resolution authorizing: (a) entering into a ground lease agreement with the City of Malibu for Charmlee Wilderness Park for the preservation of open space and park purposes; (b) possible subsequent sublease agreement to the Mountains Recreation and Conservation Authority for said purposes, and (c) acceptance of fee title to Charmlee Wilderness Park for said purposes.**

Staff Recommendation: That the Conservancy adopt the attached resolution authorizing: (a) entering into a ground lease agreement with the City of Malibu for Charmlee Wilderness Park for the preservation of open space and park purposes; (b) possible subsequent sublease agreement to the Mountains Recreation and Conservation Authority for said purposes, and (c) acceptance of fee title to Charmlee Wilderness Park for said purposes.

Legislative Authority: Public Resources Code Section 33206:

The conservancy may lease lands acquired in accordance and for purposes consistent with [Division 23, the Santa Monica Mountains Conservancy Act].

Public Resources Code Section 33207.5(e)(2):

The executive director of the conservancy may take any actions that are necessary to carry out [Division 23, the Santa Monica Mountains Conservancy Act].

Background:

The Conservancy and MRCA's proposed Malibu Parks Public Access Enhancement Plan, which had proposed certain improvements for camping and public access in several Conservancy and MRCA-owned parks in the Malibu area, a series of lawsuits and related actions were filed by and against the Conservancy and MRCA. This protracted litigation has proven costly in terms of time and financial resources and has led to a delay in implementation of the proposed improvements.

Recently, the City of Malibu approached staff with a proposed settlement that would resolve one of the outstanding lawsuits. A key part of the settlement agreement is the exchange of the

Conservancy-owned Malibu Bluffs Open Space (“Bluffs”) for Charmlee Wilderness Park (“Charmlee”), which is owned by the City of Malibu. Initially, the parties will enter into mutual five year ground lease agreements for the two parks. The ground leases will allow the parties to assume control of the respective parks and ensure sufficient time to satisfy all terms of the settlement and process the exchange of fee title.

Charmlee is an approximately 534-acre park that is the most user friendly upland coastal open space park in Los Angeles County west of the National Park Service’s Solstice Canyon Park. It contains parking, permanent restrooms, a water tank, fire hydrants, a nature center, a caretaker’s residence, an outdoor classroom, picnic sites, and an extensive trail system. The future Coastal Slope Trail will also course through the southern portion of the park. The mountain, ocean, and coastline views from the park match any other in the Santa Monica Mountains. It located less than five miles from Pacific Coast Highway up Encinal Canyon Road.

The City and the Conservancy have acknowledged that, due to its location and the nature of the park itself, Charmlee is a property that shares characteristics with other Conservancy and MRCA properties. Likewise, the Conservancy and MRCA are more appropriately suited to operate and manage a large open space property such as Charmlee. Adoption of the accompanying resolution will also authorize entering into a sublease agreement with the MRCA, to allow the MRCA to assume daily operation of Charmlee and to participate in planning and entitlement applications. The proposed sublease to the MRCA would be subject to the approval of that agency’s Governing Board.

In return for entering into a ground lease for Charmlee and eventually accepting fee title, it is proposed that the Conservancy would issue a ground lease to Malibu for the Bluffs and eventually transfer fee title thereto. The City has expressed a strong desire to assume control of the Bluffs due to its proximity to the City center and its location directly adjacent to the City-owned Malibu Bluffs Park, home to a wide variety of civic and recreational activities. The City’s use of the Bluffs would be limited to public park, recreation, and open space purposes through a restriction recorded as part of the grant deed.

Execution of the proposed ground leases and the eventual transfers of fee title will preclude Conservancy/MRCA improvements for camping at the Bluffs but will allow a plan for camping at Charmlee to move forward with the required permitting.

Staff recommends the adoption of this resolution as it provides benefits to the Conservancy, MRCA, and the City of Malibu and allows for the final resolution of costly and contentious litigation.

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The resolution under consideration will be effective contingent upon successful execution of a settlement agreement of the pending lawsuit *Santa Monica Mountains Conservancy and Mountains Recreation and Conservation Authority v. City of Malibu, and related actions* (Los Angeles Superior Court Case No. SC 092212). If the parties thereto fail to execute a mutually acceptable settlement, the resolution will be void.