

Environmental Oversight Committee Meeting Minutes

April 6, 2011

Committee Members Present:

Chair Patricia Bates, OCTA Board of Directors
Vice-Chair Melanie Schlotterbeck, Measure M Support Groups
Chris Flynn, Caltrans
Nancy Jimeno, California State University, Fullerton
James Kelly, Measure M2 Taxpayers Oversight Committee
David Mayer, CA Department of Fish and Game
Adam Probolsky, Probolsky Research
Dan Silver, Endangered Habitats League

Committee Members Absent:

Veronica Chan, US Army Corps of Engineers
Dave Mears, California Wildlife Conservation Board
Jonathan Snyder, US Fish and Wildlife Services
Debbie Townsend, California Wildlife Conservation Board
Sylvia Vega, Caltrans
Erinn Wilson, CA Department of Fish and Game
Greg Winterbottom, OCTA Board of Directors

Orange County Transportation Authority Staff Present:

Marissa Espino, Senior Community Relations Specialist
Dan Phu, Project Development Section Manager
Monte Ward, Measure M2 Consultant

Members of the Public

Paul Thier

1. Welcome

Chair Patricia Bates welcomed everyone to the meeting at 10:10 a.m. and led the Pledge of Allegiance.

2. Approval of March 9, 2010 Minutes

Chair Patricia Bates asked if there were any additions or corrections to the March 9, 2011 Environmental Oversight Committee (EOC) meeting minutes. Melanie Schlotterbeck asked for one correction. Page 3, last paragraph: "*Melanie Schlotterbeck said based on the development plan she had seen (excluding including the Orange County portion) the wild life corridor.....*"

A motion was made by Melanie Schlotterbeck and seconded by Dan Silver to approve the March 9, 2011, EOC meeting minutes as corrected. The motion passed unanimously.

3. Call for Candidate Acquisition Properties

Dan Phu reported after approval at the last EOC meeting to add three new Group 1 properties to the list for property acquisition, staff took the recommendation to the OCTA Executive Committee and received approval to add the properties to the existing Acquisition list upon OCTA Board Approval.

Monte Ward gave an update on the progress of the property acquisitions. He said offers have been made and purchase of sale agreements entered into. Four Tier 1 properties are currently in escrow and should close within the next 30 days. One Tier 1 property is anticipated to enter into escrow shortly. Announcement of the properties selected will take place after escrow closes. Monte Ward said the three newly added properties will enter into the appraisal process within the next 30 days but will take time to complete. There are still properties on the Tier 1 list which offers have not been made that were previously authorized. There is some capacity issues with how many properties could be negotiated at one time. It is anticipated a closed session discussion on this subject will take at the next EOC meeting.

Dan Silver asked, with the addition of the three new properties, how the decision making process would work in terms of which properties are next in line for offers. Monte Ward said it would be the same matrix as used in the past – evaluation scoring, how the properties fit in strategically, and management issues. He said regular consultations will be held with the wildlife agencies and a consultation with the EOC will be held at the next meeting. Additional offers will not be made until after the first week in May 2011.

Nancy Jimeno asked if it would help for the EOC to meet sooner than May 4. Monte Ward said he did not believe it would make a difference if the EOC met earlier. A certain amount of work needs to be done in the process. Although they do not want to delay the process, a special meeting can always be called if necessary.

Melanie Schlotterbeck asked if once the Board approves the new properties the appraisals would start immediately. Monte Ward said they would not start immediately because the appraisal contract currently in place would have to be redone to accommodate the new properties. This would be at least a 30-day process.

Dan Phu said to better accommodate timing staff is recommending property tours of only the three additional Group 1 properties. Marissa Espino said the tours are being planned for early May and would take two days. She will send an email asking for member availability. Several of the committee members requested the property tours

take place in only one day. Melissa Espino said they can do the tours in one day if it works better for the members' schedules.

Monte Ward said OCTA is in the beginning stages of planning a ceremony observing the purchase of property which will take place on one or two of the properties. Melanie Schlotterbeck said the Environmental Coalition would be happy to partner OCTA in this event.

4. Restoration Proposals Update

A. Proposals Update: Dan Phu gave status update on the Restoration Properties. Of the six properties the Board originally approved for funding, four are in the process of signing legal agreements, one should be ready to sign legal agreements shortly, and one property (City of Anaheim) dropped out and the money allocated for this property will go into the second round of funding (approximately \$100,000).

Dan Phu said staff is gearing up for the second Call for Projects for Restoration Properties and the application process will be similar to the process used for the recently revamped second call for Acquisition Properties. Marissa Espino reported there will be a letter sent from the data base and an "e-blast" in mid-May after the OCTA Budget is approved. She noted the application form had been revised and is in the EOC committee members' agenda packages. She asked the members to review the form and get in touch with her if they had any comments or revisions by April 15.

Monte Ward suggested giving a copy of the most recent distribution list. Marisa Espino said she will get a copy of the distribution list to the EOC members.

Melanie Schlotterbeck asked for clarification on when applications are due. Dan Phu said they are allowing approximately six weeks for the Call for Projects. Once the information is in it will be evaluated by OCTA, the wildlife agencies, and Caltrans and a decision reached by late summer or early fall. All the legal work will be completed by the end of the calendar year. This will allow the project sponsors to take advantage of the seasonality of their restoration project.

Dave Mayer asked if the Army Corps would be reviewing the projects and if so would they be involved in the procurement. Dan Phu said yes, there is an agreement in place with the Army Corps for them to participate and OCTA is also in a separate process with the Army Corps for the Water Quality permits. This is similar to the biological permit process established for the conservation planning effort. Even for the first round of the Restoration Projects he has been in continued discussion with the Army Corps to discuss any opportunity to align the watershed benefits from the first round of projects to the freeway projects. They

will be focusing on the benefits to waters of the U.S. as well as waters of the State to satisfy the water quality permit.

Adam Probolsky asked if the application form can be found on-line. Marissa Espino said yes, it will be on-line when the Call for Projects is released. Adam Probolsky said he has people wanting information on a regular basis. He asked if they could sign up on-line to be on the distribution list? Marissa Espino said there is an opportunity to sign-up on-line for the distribution list.

Monte Ward said as a follow-up to the earlier discussion of the water quality issues and impacts with the U.S. and the State, the State Water Quality Resources Board is proposing some changes to how State waters are treated in terms of the regulatory process. There is a possibility this may change our process mid-stream. Information can be provided if any of the committee members are interested in learning more about it. It could potentially be disruptive to programs such as the environmental programs because the rules might be changing and could affect mitigation requirements.

- B. Second Call For Restoration Projects: Monte Ward said staff discussed the Restoration Projects with the Executive Committee on Monday, April 4. A motion was added to the Restoration Proposal item to, upon approval of the OCTA Budget in May 2011, issue a Call for Projects for the next round of Restoration Properties. In this case there is a more extensive list of people to send to (over 1000) and staff has a much better idea of what to look for in the applications. Also applicants have a better understanding of the project and some of the applicants who received money this time have additional phases to their projects.

5. Public Comments

Paul Thier said he had a number of issues regarding the Feber Property. The first issue is the property will need to be split and this will cause problems if OCTA does not have Title yet. Jack Dangelo has decided on the first right of refusal and this may cause a problem. He assumed the EOC received a letter from Supervisor Campbell regarding the property and easement concerns which have not been addressed. Mr. Thier dropped off a letter addressed to Chair Patricia Bates laying out all the issues and he has not gotten a response to the letter. Thier Ranch LLC has a leasehold on the Feber property and he has not been notified by OCTA on anything regarding the property.

Paul Thier said this leaves him with four options.

1. He can ask OCTA to put wording into the escrow to clear-up the legal implications.
2. He can file a complaint. It is already drafted and will be filed next week.
3. He can help finance the first right of refusal.
4. He can file a suit under Thier Ranch LLC as a leasehold interest.

These issues are easily solvable – just give him the easements promised to him in the original purchase and make a swap which has already been designated. Hopefully this property is not in escrow because if it is he will exercise his rights under this. There are federal laws involved as to what can and cannot be done if the property changes hands.

Paul Thier gave the direction of his attorney. His attorney and the OCTA legal counsel can talk and maybe this situation can be resolved.

Monte Ward said the issues Mr. Thier has raised have surfaced in discussion about this property. The property owners are aware of the issues but do not have any resolution to the issues.

Chair Patricia Bates said she has not seen the letter Mr. Thier addressed to her but will look for it. Paul Thier said he would forward her a copy.

Monte Ward will follow-up with legal counsel.

6. Committee Member Reports

Melanie Schlotterbeck said State law SB375 requires reductions in Green House Gas emissions focusing on passenger vehicles and light trucks. All the metropolitan planning organizations (this area belongs to Southern California Association of Governments) are required to create a sustainable community strategy. Orange County and the Gateway Cities have chosen to create their own. She has talked with Dan Phu, Monte Ward and Dave Simpson (Orange County Council of Governments) about expanding above and beyond the Measure M program. As part of the Green Vision Coalition they sent out a letter asking people to sign on and requested a new strategy be added to the Orange County Sustainable Community Strategy that an open space acquisition program be developed as a way to reduce or avoid emissions. Several groups have signed on and they are trying to work this concept into future planning efforts.

7. Next Meeting – Wednesday May 4, 2011

The next meeting of the EOC will be Wednesday, April 6, 2011 at the OCTA offices.

8. Adjournment

The meeting adjourned at 10:45 a.m.