

Environmental Oversight Committee Meeting Minutes

August 5, 2009

Committee Members Present:

Chair Patricia Bates, OCTA Board of Directors
Vice-Chair Melanie Schlotterbeck, Measure M Support Groups
Rose Coffin, Taxpayers Oversight Committee
Cathy Green, OCTA Board of Directors
Adam Probolsky, Probolsky Research
Dan Silver, Endangered Habitats League
Debbie Townsend, California Wildlife Conservation Board
Sylvia Vega, Caltrans
Erinn Wilson, CA Department of Fish and Game

Committee Members Absent:

Veronica Chan, US Army Corps of Engineers
Jonathan Snyder, US Fish and Wildlife Services

Orange County Transportation Authority Staff Present:

Marissa Espino, Senior Community Relations Specialist
Janice Kadlec, Public Reporter
Will Kempton, Chief Executive Officer
Jim Kenan, Executive Director of Finance and Administration
Dan Phu, Project Development Section Manager
Monte Ward, OCTA Consultant

1. Welcome

Chair Patricia Bates welcomed everyone to the meeting at 10 a.m. and asked committee member Dan Silver to lead the pledge of allegiance.

2. Minutes

Chair Patricia Bates asked if there were any additions or corrections to the June 3, EOC Meeting Minutes. Vice-Chair Melanie Schlotterbeck requested the following corrections to the minutes:

Page 1 and 8: correct to Friends of Coyote Hills Group

Page 1 and 7: correct to Dennis McHale, Canyon Lands Conservation Fund

Page 8 paragraph 3: correct to "Eric Nicoll is the Technology Development Director for the City of Brea, and the city is a member of Hillside Open Space Education Coalition (HOSEC)."

A motion was made by Vice-Chair Melanie Schlotterbeck and seconded by Director Cathy Green to approve the July 1, 2009 meeting minutes as corrected. The motion passed unanimously.

3. Planning Agreement & Master Agreement Update

Dan Phu gave an update on the Planning Agreement & Master Agreement. The agreements were given to the wildlife agencies and Caltrans on July 23 to gain final confirmation on changes. They were asked to respond by the second week in August. Pending approval by these agencies, staff can proceed with the execution of the documents.

4. Early Acquisition and Restoration Prioritization Process

A. Summary of July 20, 2009 T2020 Committee Actions

Monte Ward reported the Early Acquisition and Restoration Prioritization Process was taken to the T2020 Committee for approval. The T2020 Committee returned the document to the EOC with the following suggestions for consideration of the policy and prioritization factors, prior to determination of mitigation credits and assurances by the resource agencies:

- a. Establish an allocation goal of 80% of funds for acquisition and 20% for restoration over the entire life of the freeway mitigation program.
- b. Include the total cost, inclusive of long-term management and maintenance costs, in the evaluation of acquisitions or restoration projects
- c. Grant some priority consideration to acquisitions or restoration projects that include non-Measure M funding or a revenue stream to offset the long-term cost of management and maintenance
- d. Vest functional responsibility for long-term management and maintenance with an agency or entity other than OCTA.
- e. Include public access as a co-benefit in the adopted Renewed Measure M Property Acquisition Criteria as it is in the Restoration Criteria.

Monte Ward said the T2020 Committee asked the EOC to consider the policy modification suggestions and how they would be portrayed in the prioritization process.

Chair Patricia Bates asked the committee members for comments on the proposed policy considerations.

Vice-Chair Melanie Schlotterbeck said the support group for M2 did not support a focus on restoration, and they are comfortable with an 80%/20% split, but would like to include property management. They would like it to read "...80% of funds

for acquisition and 20% for restoration and management.” This would be a goal not a hard line number. Committee member Dan Silver agreed with this wording, as a placeholder, he did not have enough information to make a determination as to what the proper allocation should be.

Committee member Adam Probolsky asked if credit is given for properties with management in place. Committee member Erinn Wilson said as long as it goes toward regional conservation efforts, technically long term management is incorporated into the plan itself.

Committee member Cathy Green asked how public access would be handled. Very few of the proposed properties had public access. Monte Ward said public access was considered one of the co-benefits of the program. An example would be a managed access program with controlled access to the resource. Committee member Erinn Wilson said public access could be problematic, usually when it is in the plans it is about controlling access in the preserve. We wouldn't be looking at funding a trail simply for people; it would have to have a positive affect on the resources.

Vice-Chair Melanie Schlotterbeck said care should be given to directing money towards management because the transportation investment plan and the Ordinance talks about high ecological benefit. She did not know how management meets this. Committee member Adam Probolsky said his interest was in giving extra considerations to properties with a management plan in place. He would not be a fan of spending resources on management

The committee discussed how other agencies handled property management, looking at the entire property package presented, and matching funds.

Committee member Rose Coffin asked who would be the ultimate owner of the property purchased by OCTA/Measure M. Monte Ward answered it would not be OCTA in the long term. It would be an agency suitable for long-term stewardship of the property - it could be Orange County Parks, the State, a conservancy, or some other entity. It was asked if OCTA may have responsibility for the property in the mid-term. Committee member Erinn Wilson said property is purchased to offset the impact and develop a reserve; usually there is a non-profit that oversees the management of the land by the entities that own the land. You have to provide management in perpetuity. Rose Coffin asked if OCTA is responsible in perpetuity? Erinn Wilson said OCTA is responsible for establishing a management endowment in perpetuity for the length of the permit which can be up to 50 years.

Chair Patricia Bates asked the EOC if there was a consensus to approve the recommendations of the T2020 committee. There was no opposition to accepting the recommendations.

B. Action recommendation: Discuss and reconsider the prioritization process

Vice-Chair Melanie Schlotterbeck asked the following:

- Bullet point number three (Board approval on program parameters etc.) in Step 2 (Policy Considerations) moved to the top of Step 4 (Mitigation Plan Review and Adoption), and
- The second bullet point (Reconcile CDFG, USFWS, and OCTA priorities) in Step 3 moved to Step 4. (Mitigation Plan Review and Adoption)

A discussion was held on the reasons for moving bullet point three in Step 3 to Step 4. It was decided to add the word “preliminary” and let it stay in Step 3. The bullet point would then read, “Requires preliminary assurances that mitigation credit will be given for M2 freeway program”. It was also decided to add the bullet point to Step 4 with the original wording.

Vice-Chair Melanie Schlotterbeck requested the “diamond” character at the bottom of the page should say “Denotes public, T2020, and full Board Input/Approval.”

Vice-Chair Melanie Schlotterbeck asked about the permits required with the Army Corps of Engineers (Corps) and where they fit in with the process and assurances. Monte Ward said there is not a requirement in the HCP/NCCP for them to be participating. The Planning Agreement acknowledges the permitting process has to be negotiated and ways found to achieve a co-benefit. There is a separate conversation going on with the Corps, which includes a possibility OCTA may provide resources so they can come to the table earlier. They may be able to issue a front-end commitment against the permits they need to issue. At a minimum, we believe their involvement and providing the resources so they can be involved in this project would be beneficial.

Committee member Sylvia Vega said the Regional Water Quality Control Board (RWQC Board) is critical for the process to go forward. Monte Ward said OCTA has engaged the RWQC Board in respect to the water quality program, but not with the mitigation program. Suggestions are welcome as to how to remedy this.

Chair Patricia Bates suggested having an update on the situation with the Army Corps of Engineers at a future meeting. Monte Ward said OCTA has quarterly discussions with the Corps and could have a report at the next meeting.

Monte Ward repeated his request for suggestions on how to approach the challenges with working with the RWQC Board. Committee member Sylvia Vega said a 401 Permit issued by the RWQC Board is needed in order to begin work and the Corps won't budge without it.

Chair Patricia Bates asked the EOC if there was a consensus to approve the modifications made to the Five Step Sequential Prioritization Process. There was no opposition to accepting the modifications.

5. Conservation Assessment Analysis Update

Monte Ward said OCTA has been working with the Conservation Biology Institute (CBI) on updating the data being used and obtained appropriate parcel information to overlay the data in the GIS system. Monte reported there is a better sense of what is needed. Work now needs to begin on working on the evaluation tool or matrix to screen and score the projects. Dan Phu gave an update on where they were in the process.

Committee member Dan Silver asked when OCTA would be getting together with CBI to start working on the process. Dan Phu said it hinges on the execution of the Planning Agreement, but it should happen soon. Monte Ward said OCTA's intention is to take the matrices they have been working with internally and sit down with Caltrans, California Department of Fish and Game (CDFG), and the United States Fish and Wildlife Service (USFWS). After this discussion, the matrices would go back to the EOC sometime in October. This is later than they hoped for, but work needed to be done in cleaning up the data and completing the matrix.

Committee member Dan Silver asked if the CDFG would be able to participate in the process. Dan said it is his understanding that even though OCTA offered funds to the CDFG for staff support, the CDFG has been unable to accept these funds. Erinn Wilson said the legislature was concerned about a conflict of interest. Monte Ward said there is currently an agreement with the CDFG being reviewed and it should be agreed upon by the end of this week.

6. Three-Month Look Ahead

Dan Phu reviewed the Measure M Environmental Mitigation Program Three-month Look Ahead Task Sheet.

7. Open Committee Member Seat Update

Chair Patricia Bates announced her recommend choice to fill the vacant public member seat on the EOC. Chair Bates recommended Nancy Jimeno, a California State University, Fullerton professor for the public member seat. Chair Bates gave background information on the new member.

8. Public Comments *(Public comments on all items take place at this time.)*

There were no public comments.

9. Next Meeting

The next meeting of the Environmental Oversight Committee will be September 2, 2009 at 10 a.m.

10. Committee Member Reports

Vice-Chair Melanie Schlotterbeck thanked OCTA staff for getting the committee agenda out early. Vice-Chair Schlotterbeck submitted a list of properties that made presentations, but are missing from the list of properties under consideration.

Jim Kenan introduced Will Kempton, the new OCTA Chief Executive Officer. Will Kempton said he is delighted to be at OCTA and is excited to engage in the challenging opportunities to keep the County moving. He is looking forward to working with the public, the OCTA Board of Directors, and elected officials to make sure this happens.

Chair Patricia Bates said OCTA is excited about working with him and she has known him as a hands-on official who has always had the time to meet with individuals on issues before him. Chair Bates asked each member around the table to introduce themselves.

11. Adjournment

The meeting adjourned at 11:20 a.m.