

Measure M2 Environmental Oversight Committee

October 3, 2012

Meeting Minutes

Committee Members Present:

Chair Patricia Bates, OCTA Board of Directors
Vice-Chair Melanie Schlotterbeck, Measure M Support Groups
David Mayer, CA Department of Fish and Game
Dan Silver, Endangered Habitats League
Chris Flynn for Sylvia Vega, Caltrans
Nancy Jimeno, California State University, Fullerton
Philip La Puma, Measure M2 Taxpayers Oversight Committee
Jonathan Snyder, US Fish and Wildlife Services
Greg Winterbottom, OCTA Board of Directors

Committee Member(s) Absent:

Veronica Chan, US Army Corps of Engineers
Dave Means, California Wildlife Conservation Board
Adam Probolsky, Probolsky Research

Orange County Transportation Authority Staff Present:

Marissa Espino, Strategic Communications Officer
Lesley Hill, Planning Department Project Manager
Janice Kadlec, Public Reporter
Dan Phu, Project Development Section Manager

Public Members:

Paul Thier
Laurie Hughes
Vanessa Mascia
Rod Van Sickle

1. Welcome

Chair Patricia Bates called the Environmental Oversight Committee (EOC) meeting to order at 10:05 a.m. and asked Nancy Jimeno to lead the Pledge of Allegiance.

Chair Bates welcomed a new member to the EOC – Phillip La Puma who represents the M2 Taxpayer's Oversight Committee. Phillip La Puma gave a brief summary of his background. For his benefit the EOC members introduced themselves around the table.

2. Approval of the July 18, 2012 Minutes

Chair Patricia Bates asked if there were any additions or corrections to the July 18, 2012 EOC meeting minutes. A motion was made by Melanie Schlotterbeck, seconded by Dan Silver, and passed unanimously to approve the July 18, 2012 EOC meeting minutes as presented. The motion was carried unanimously.

3. Acquisition Properties Status

A. Appraisal Status Update: Dan Phu gave an update on the status of the Acquisition Properties. The appraisals for a subset of the properties in Group 1 have been completed and the committee will meet in closed session after the regular EOC meeting to discuss the properties.

B. Interim Land Managers Update: Dan Phu gave an update on the current interim land managers of the five properties that have been acquired. The properties and the Interim Land Managers are as follows:

- a. O'Neill Oaks: Orange County Parks
- b. Hayashi: Chino Hills State Park
- c. Saddle Creek South: Transportation Corridor Agencies
- d. Hafen: Audubon Society
- e. Ferber Ranch: Professional/contracted services

4. Restoration Projects Status

Lesley Hill gave an update on the status on the current restoration properties and on the previous properties in Round 1 of funding.

5. Public Outreach Update

Marissa Espino reported on the Irvine Ranch Open Space Annual Wilderness Celebration.

Marissa Espino gave an update on the public awareness campaign for the M2 Freeway Environmental Mitigation Program. It included a history, outreach activities, and the 2012-13 Outreach Plan for the Program. She concluded with future plans for the Program beyond 2013. Marissa Espino said staff would welcome any other ideas for the Public Outreach Plan and encouraged the EOC members to give staff their feedback.

Dan Phu brought to the committee's attention the computer slide of the Green Vision Map provided by Measure M Support Group. This map provided the baseline information needed to determine existing available open space lands in the County that was in private holding.

Chair Pat Bates commented the Green Vision Map is a key part of the EOC history.

Melanie Schlotterbeck asked if the \$400,000 mentioned in the report for the restoration call for projects was new money. Staff said it was carryover money from the previous restoration call for projects.

Nancy Jimeno asked what is involved in the virtual public meetings. Marissa Espino said virtual public meetings would offer the same materials online as someone would see if they were physically at the meeting. This would also include the ability to comment online.

Nancy Jimeno asked what stakeholder meetings were. Marissa Espino said stakeholder meetings would be meetings where interested parties are invited.

Chair Pat Bates asked if the eventual management of the acquired properties is moving toward just one or a combination of individual groups or non-profits. Is OCTA thinking of one entity or a coalition of groups managing the property? Dan Phu said OCTA is setting aside a sufficient amount of money to ensure the properties are maintained. One of the things they want to happen, since OCTA has the treasury function, is to hold on to the principal of the endowment so that it can't be mismanaged. From this standpoint, there is a commitment and obligation with the wildlife agencies to set aside enough funds to see to it that interests yielded from these funds will be used for management.

The question as to whether it will be one entity or a group of entities managing the properties is still in the development stage. They have had meetings with agencies such as The Irvine Ranch Conservancy, the Audubon Society, O.C. Parks, and others to discuss interim management. One of the challenges for the potential land managers is that it is difficult for them to commit to only short term (two or three years) management since it would not make sense from an economic and business standpoint for them to staff up and then have to let go of staff if they do not end up being the long term manager. These entities would like to discuss management with OCTA, but it would need to be long term management. Chair Pat Bates said this is a good item for everyone to be aware of.

Philip La Puma asked if once a long term manager has been established will there be something in place to monitor the quality of the management. Dan Phu said they have discussed this internally and at the start up of getting a long term manager in place, they would likely issue a contract for a shorter period, potentially 10 years or less. This will enable OCTA to gauge if the land manager is the right fit for the responsibilities. At the beginning, when getting the long term manager on board, a decision will need to be made on whether or not an option contract is issued or something similar in place. There will be language built into the contract that outlines penalties for lack of performance. Philip La Puma asked if these management companies would be audited as required by M1 and M2. Dan Phu said all contracts have provisions that enable OCTA to audit the contractor.

6. Public Comments

Chair Patricia Bates said public comments are limited to three minutes per speaker and committee members are not allowed to comment on items not on the agenda. When there are items of concern for future agenda or something staff can respond to, staff can take the question or meet with the speaker after the meeting to clarify concerns or issues. Since all of the public comments will be about the same subject, she would like Dan Phu to respond to any he can after the speakers have spoken.

Rod Van Sickle, a resident on Hamilton Trail next to Ferber Ranch, addressed the EOC on problems on the Ferber Ranch property. When OCTA took control of the Ferber Ranch property, residents were told the property would be closed to access for 18 months. The time has just about run out and he would like to know the future plans for the property. He has easement on the property for egress, has ridden his horses on the property for 25 years, and hates to see it closed off.

The horses are not the issue as far as the environment is concerned, but the vehicles are because the grass on the property is very dry. OCTA patrols the property in vehicles and a spark from a catalytic converter could start a fire. He is a retired firefighter with the Orange County Fire Authority (OCFA) and he has seen hundreds of fires started this way.

Dan Silver asked whose vehicles are on the property and why. Rod Van Sickle said he has been told the vehicles are OCTA patrol vehicles, but he has not seen them. Dan Silver asked if the vehicles have no other way to patrol than going over the dry grass. Rod Van Sickle said some of the dry grass on the roadway has been removed but not all of it.

Paul Thier said he had a lawsuit against the Ferber property and in discussions with OCTA was told they would not be purchasing the Ferber property unless the lawsuit was dropped so he dropped the lawsuit. OCTA agreed to keep the front gate electrified and also maintain a short amount of road. There were also discussions on the access for horses. Originally, it was going to be a licensing agreement or public access. Instead OCTA has taken the position they do not want to repair the gate, they do not want to maintain the road, and they do not want anybody on the property – horses or otherwise. As far as he is concerned, OCTA convinced him to drop a lawsuit which he thought he was doing for the benefit of the people of Orange County so there would be a park and open space, but instead OCTA has closed the property to everyone. This was not the intent of Measure M; there was supposed to be public access.

Paul Thier said Ferber Ranch does not have electricity, water or parking. It is no surprise that O.C. Parks decided they did not want to take care of it.

Paul Thier said what prompted him to appear at the EOC meeting was when Mr. Phu asked him to put a lock on the gate. Obviously if the gate was electrified, there would

be a four-digit code and a key would be unnecessary. If he put a lock on the gate it would require over 50 keys for residents, veterinarians, etc. There would be no security because keys can easily be duplicated. Surely there are other properties that have combination locks.

Paul Thier said he was at the point of considering this harassment. There were claims OCTA had no knowledge of where the horse manure was. There was a Dudek report made for environmental studies which he does not know if OCTA even accessed. There were claims about manure piles but OCTA staff stood on these manure piles when looking at the property.

Paul Thier said he has done workers' compensation investigations for the State of New York, the State of California and under gag order for the courts. Due to this experience he learned that when things don't look right they don't look right.

Vanessa Mascia said she is concerned about the Ferber Ranch property since O.C. Parks is not going to take it over. This is a big piece of public land for equestrian use and one of the last in Orange County. OCTA has also acquired all other properties connecting to O'Neill Park. Now residents have no dirt road access to the Park and can only access the Park by paved street (Trabuco Oaks Drive). Riding horses on paved roadway is very dangerous to the horses and the riders.

Vanessa Mascia said her other concern is winter is coming and she does not believe OCTA is prepared to handle what will happen on Ferber Ranch when the winter storms hit. There is a high danger of mud slides on the property, which has happened before. Hamilton Trail floods a lot and without access to the Ferber Ranch property residents will be stranded. The gate, culverts, and roads all need to be taken care of and it is not happening.

Laurie Hughes said she boards her horse in the area and is concerned about weed abatement and the fire roads on Ferber Ranch. They do not ride in Ferber Ranch, but the fire road is visible past the gate and the weeds are clearly visible. Residents in the area are very aware of the danger of these weeds especially since they had to evacuate during the 2007 fire. She has been in contact with Marissa Espino at OCTA since July 2 about taking care of this and Marissa Espino did get a crew out and some of the weeds were taken care of. Laurie Hughes said her problem is the road has not been cleared. They have seen OCTA trucks use this road. She would like to make sure this is taken care of. She does not believe the job is being done.

Dan Phu addressed the access issues on the Ferber Ranch property. He said concurrent with producing a Conservation Plan, a Resource Management Plan is being prepared. These are documents particular to the individual property. It is not a generic plan. Each property has its own unique topography and challenges. Within the Resource Management Plan, there is an array of issues that need to be

addressed in the long run. These issues include weed abatement, fire, floods, and access.

Access is one of the secondary co-benefits when evaluating the properties so it has not been forgotten about and is one of the reasons the Resource Management Plan is being prepared well ahead of when it will be required. Recognizing public access is key to the stakeholders and the public. OCTA has elected to prepare the Draft Resource Management Plan well ahead of when it will be needed.

Dan Phu said the reason access to the Ferber Ranch property has been denied is related to trespassing and illegal dumping. There is a long term plan to allow public access where it makes sense. He emphasized this because the number one priority for OCTA's mitigation program is to get credit from the wildlife agencies. As an example, if there is a sensitive area that a trail runs through, they will shut down the trail and divert it to a less sensitive area.

Greg Winterbottom said he understands getting the environmental documents in place quickly is important but while this is happening, there is maintenance and mitigation that can be done. Maybe it has not been made clear enough in the area that it is not public land. In the future, there will be some access allowed in different areas but in order to get the mitigation credit, trails may be shut down. Dan Phu said there are signs informing the public the land is owned by OCTA and additional signs will be in place explaining why there is no access.

Dan Phu addressed the issue of OCTA vehicle access to the sensitive areas. All OCTA vehicles have catalytic converter shields under the vehicles. This reduces the potential of the vehicles starting a fire.

Chair Patricia Bates said there needs to be a better understanding regarding the risk of fire and flooding on the property. She would like this to be looked into and brought back to the EOC. There needs to be a clear understanding on how this is being addressed. The other issues brought up by the public comments have legal overtones that cannot be addressed in this forum.

Dan Silver said there seemed to be an issue with the OCTA weed abatement not being completed properly and asked what the timeline is for the Conservation Plan and the Resource Management Plan which would provide information on where public access will be. Dan Phu said the Conservation Plan and the Resource Management Plan will be released for public review in the first part of 2013. Dan Phu said with respect to the weed abatement issue there is another contract at OCTA that can be used that covers the existing management issues on the property. This contract can be used for the weed issues on the property. He will ask for a new assessment on the property and he will report back to the EOC what the maintenance contractor has determined. Staff has also gone out with the Orange County Fire Authority (OCFA) and discussed potential issues.

Nancy Jimeno said she recently did a dissertation on the Natural Community Conservation Plan (NCCP) looking at both sides of it and she does not think it is a perfect fit. The process has taken a long time and purchasing the land took a long time. This is something that should not be taking a lot of time when the result could be fire or floods. The residents of the area have to deal with this on a day to day basis. It is great to see the amount of work that has been accomplished but now we are talking about people's lives and it should not take this long. Dan Phu reiterated that while documentation are being prepared in support of the program, this by no means stops the necessary maintenance work that is needed on the property.

Chair Patricia Bates said she agrees and feels the entire EOC agrees that these critical safety issues should not take any more time. She has asked Dan Phu to investigate what needs to be done and get a memo to the EOC on what he has found. She also feels good they have contacted OCFA because that's who oversees weed abatement situations like this. Dan Phu said OCTA does have processes in place for these situations and in fact they have been doing some of the weed abatement the members of the public spoke about; the difference of opinion is whether or not this is enough. Staff is clear on the direction and the maintenance contractor will visit the property. They are the professionals and will know not to cut the weeds back so much that it will cause erosion.

7. Committee Member Reports

Melanie Schlotterbeck reported Hills for Everyone recently released a report on the fires near Chino Hills State Park and the report is on hillsforeveryone.org. There are three hotspots where fires seem to start along the SR-91 corridor, at Rim Crest, and at Carbon Canyon Rd. She would like to chat with OCTA about these places where fires seem to start along roadways.

Melanie Schlotterbeck reported the Southern California Association of Governments (SCAG) is working on an environment program similar to OCTA. SCAG is currently working on a work plan to determine the best approach for the six county regions.

8. Next Meeting – November 7, 2012

The next EOC meeting will be on Wednesday, November 7, 2012 at the OCTA offices.

9. Closed Session

The regular EOC meeting adjourned at 11:05 a.m. and went into Closed Session. Closed session adjourned at 12:05 p.m. and there were no further actions reported in public session.