

Measure M2 Environmental Cleanup Allocation Committee

January 10, 2013

Meeting Minutes

Committee Members Present:

Chair Mary Anne Skorpanich, O. C. Watersheds
John Bahorski, City of Cypress
Gene Estrada, City of Orange
Hector B. Salas, Caltrans
Jean-Daniel Saphores, UCI for William Cooper, UCI
Sat Tamaribuchi, Environmental Consultant
Dennis Wilberg, City of Mission Viejo
Dick Wilson, City of Anaheim
Marwan Youssef, City of Westminster

Committee Members Absent:

Mark Adelson, Santa Ana Regional Water Quality Control Board
Vice Chair Garry Brown, Orange County CoastKeeper
Scott Carroll, Costa Mesa Sanitary District
Chad Loflen, San Diego Water Quality Control Board
Tom Rosales, General Manager, South Orange County Wastewater Authority

Orange County Transportation Authority Staff Present:

Alison Army, Senior Transportation Analyst
Marissa Espino, Senior Strategic Communications Officer
Janice Kadlec, Public Reporter
Charlie Larwood, Manager of Planning and Analysis
Abbe McClenahan, Manager of Programming
Dan Phu, Project Development Strategic Planning Section Manager
Monte Ward, Measure M Consultant

Guest(s)

Lisa Zawaski, City of Dana Point
Robert Staples, City of Costa Mesa
Amanada Carr, City of Irvine
Nancy Palmer, City of Laguna Niguel
Tyrone Chesanek, City of Santa Ana
Carlos Castellanos, City of Santa Ana

1. Welcome

Chair Mary Anne Skorpanich began the Environmental Cleanup Allocation Committee (ECAC) meeting at 10:15 a.m. and welcomed everyone.

2. Approval of the December 13, 2012 Meeting Minutes

Chair Mary Anne Skorpanich asked if there were any additions or corrections to the December 13, 2012 ECAC meeting minutes. A motion was made by Dick Wilson, seconded by Marwan Youssef, and carried unanimously to approve the December 13, 2012 ECAC meeting minutes as presented. Gene Estrada and Jean-Daniel Saphores abstained from voting because they did not attend the December 13, 2012 meeting.

3. Tier 2 Call for Projects Applications

Dan Phu reviewed the Recommendation Summary given to the Committee Members regarding the Tier 2 Funding Allocation including actions taken at the December 2012 ECAC meeting.

Dan Phu relayed the information that, subsequent to the meeting, Irvine reduced their project costs by \$2,223,436 by eliminating the SR-261 dewatering portion. In addition, Irvine received \$1 million from the Proposition 84 grants that reduced the City's total project cost eligible for M2 funding to \$5,455,175.

Dan Phu also noted the Tier 2 Guidelines stated only projects receiving a score of 70 points or above would be considered for funding. If the ECAC adhered to this Guideline only two projects would be recommended. Working with the CTFP staff they decided to deviate from the Guidelines and find some projects scoring less than 70 points are projects worthy of funding. Monte Ward said the low score of some projects underscores the intent of the ECAC to split the funding by years. This is the first outing and there is a lesser amount of funding because people are getting up to speed and developing projects and they did not have the information to enable them to structure a Grant Application.

Dan Phu reported guidance was also given to the OCTA evaluation team to recommend a contingency set of projects that are not recommended for funding, if any of the recommended projects drop out or ultimately cannot meet the grant requirements. Also, in order to ensure that projects are implemented in an expedient manner, each of the eight primary project sponsors must have secured the necessary agreements with sanitation districts and/or flood control district, as appropriate within 60 days of Board approval. Staff is seeking Board approval in February 2013.

Chair Mary Anne Skorpanich asked if the 60-day requirement was in the Guidelines. Dan Phu said it was not in the Guidelines but the evaluation committee wanted to make sure whatever agreements were needed were in place. This goes back to the "shovel ready" nature of the projects. They do not want a situation where the OCTA Board authorizes funding for a project and the project takes two years to secure a legal agreement with the third party.

Gene Estrada asked if this was a reasonable time frame. Dan Phu said this was the time frame proposed to the applicants, but if the ECAC feels this is too short they can recommend a longer time frame. Abbe McClenahan said the funds needed to be obligated within the first year.

Chair Mary Anne Skorpanich said there were several issues to be discussed: 60-day deadline, 70 point score minimum for funding, and secondary list of projects with minimum points. She suggested they start with the scoring issues.

Gene Estrada asked if it is known why the projects scored lower than estimated. Dan Phu said part of the problem was some of the applicants were victims of geography because their watersheds are not as high on the impaired watershed priority list. Monte Ward said this was an anticipated issue in the first round of funding and it is why lower scores are being seen. Jean-Daniel Saphores asked if the people who scored the maximum points for their projects had additional knowledge of the process which aided them in scoring higher. Monte Ward said yes. There will be a debriefing with project applicants and they will be shown how to bring their scores up. The idea is to get projects funded not to eliminate projects.

John Bahorski said what troubles him is the projects on the list show a number of sidewalks/pathways which he thought were not Tier 2 funded project features. He did not think this is what the taxpayers of Orange County were thinking about either. Hopefully it is just how the descriptions are presented. Dan Phu said this is correct, the description is sometimes misleading. Many of the projects were large projects and the water quality portion is a small part of the project. The Evaluation Committee had a hard time weeding out the portions of the project which are eligible for M2 funding. In the future they will ask the applicants to list the M2 components of each project separately from project components not eligible for M2 funding. John Bahorski suggested when the list of projects goes to the OCTA Board it is clarified; list the M2 components of the project separately.

Denis Wilberg asked if staff had fully looked at the projects and confirmed that none of the proposed projects supplant anything developers should have done. Dan Phu said yes, this is why the evaluation process took staff over two months.

Gene Estrada suggested that the Tier 2 applications include information on whether there is a requirement to fund water quality separate from potential M2-funded project components. Information about whether the projects have been reviewed very carefully and there is no duplication or supplanting work required by other entities should also be included. He would also like to see better projects score higher in the next round of Tier 2 funding.

Dan Phu said, in going over the application process, staff could have done a better job in looking at the applications, the guidelines, and making it clearer what was being

asked of the applicants. OCTA thought it was being clear, but the applicants did not agree.

Monte Ward said the scoring methods and the balance within the scoring methods need to be looked at based on the first round of funding. Part of this is communication.

Lisa Zawaski suggested the 60-day time frame to secure agreements could be unrealistic. She asked if other applicants indicated the June 2013 date would cause problems. Dan Phu said most of the applicants selected the June 2014 date; only two applicants indicated they could award a contract by the June 2013 date. This response demonstrated it was a good move to have a 35% - 65% split on the first round of funding because not all projects proposed seemed to be "shovel ready."

Chair Mary Anne Skorpanich suggested the ECAC focus on the 70 point minimum for funding issue and whether or not it needed to be revised.

Jean-Daniel Saphores asked how the committee justified the allocation of points. Dan Phu said in the process of creating the guidelines, application, and the score sheet it was determined 70 of the points on the score sheet would be allocated for the technical aspect (needs of the watershed) of the project and 30 points would be for the non-technical aspect (reduction of a flooding problem, recreational benefit, habitat benefit, project readiness) of the project.

Nancy Palmer (City of Laguna Niguel Tier 2 Project Applicant) indicated the applicants were never able to see how the technical scoring was done and this process had occurred in a "black box." Dan Phu said it was not the intention of OCTA to "black box" any of the information. The Geosyntec study had a GIS set of data for which OCTA made available to everyone. It is not proprietary. OCTA was happy to support the cities by making Geosyntec available to assist them with the GIS information knowing the majority of the cities in Orange County do not have a GIS division nor the resources. Ms. Palmer felt she was not included in the loop in the technical scoring process. Perhaps she had the opportunity and she did not take it but Geosyntec did not provide the breakdown of the technical scores to her.

Amanda Carr (City of Irvine Tier 2 Project Applicant) said the other issue was the modeling – how many points do they get for dry and wet weather? Maybe they were able to get the information but she was not told how to get it.

Chair Mary Anne Skorpanich said the model developed by Geosyntec had a tool in it which applicants were supposed to be able to use but the model was not finished in time for this round of funding and that is what led the ECAC to put in the 70 point minimum. Given that the applicants would not have the ability to tweak their projects to the scoring system with the tool, the 70 point minimum was added so the money was not given out indiscriminately. Charlie Larwood suggested talking with Geosyntec

and developing something that would allow feedback. The original thought was the model would be given to all cities and they would run it themselves but it was determined this would give an unfair advantage to some of the cities who did not have the staff to run the application.

Sat Tamaribuchi suggested they waive the 70 point requirement for this round of funding since the evaluation criteria had not been tested against a set of projects. The ECAC needed to take a hard look at the scoring system again.

Jean-Daniel Saphores asked if the cities could hire someone to use the Geosyntec tool for the grant. Charlie Larwood said the cities currently have funding problems and cannot afford to do this. Monte Ward suggested letting the applicants do a first phase application and allow OCTA and it's consultant do a screening. Then as part of the second phase they will get to participate in using the model. This will allow projects which are not ready to be screened out so OCTA can work with the best possibilities. The resource complaint and the level playing field will not be an issue.

Dan Phu made an observation that Geosyntec's contract is out of money and OCTA is in the process of sending out a Request for Proposals (RFP) for another consultant to support the Environmental Cleanup Program. Geosyntec will be allowed to reply to this RFP but there is no guarantee they will return.

A motion was made by Sat Tamaribuchi, seconded by Jean-Daniel Saphores, and passed unanimously to withdraw the 70 point minimum requirement for funding the Tier 2 projects.

Dennis Wilberg said everyone knows there are water quality problems in Orange County but when looking at the list of proposed projects it does not jump out that these are the projects that should be funded. Some of the projects he considered better than others ranked lower.

Chair Mary Anne Skorpanich said the next subject for discussion is the 60 day requirement for all agreements to be in place for project funding. She recommended this be clarified. Monte Ward said the idea was there is going to be another round of funding and call for projects. This was in an effort to avoid pending projects falling out with money unable to be rolled forward to the next round of funding. He agreed for most governmental processes, 60 days is not realistic. Dan Phu said the reason for the 60 day requirement is the applicants with a third party agreement were already in discussion and agreed upon.

Another Tier 2 Project Applicant agreed sixty days may prove difficult.

Robert Staples asked when the applicant would get the money from OCTA once funding is approved. Dan Phu said assuming the OCTA Board approves the

recommendation on February 11, 2013 the Letter Agreements would be completed in four to six weeks.

Lisa Zawaski asked when the Letter Agreement needed to be executed. Dan Phu said in her case it would need to be executed by June 30, 2013. Lisa Zawaski said in most cases she would think sixty days was enough time.

Another Tier 2 Project Applicant said she would find sixty days a tight fit because she would need to bring her agreement to the County Board of Supervisors and that alone would take two months to get on the agenda. There was also no guarantee it would not get delayed. This would be a concern for her.

Another Tier 2 Project Applicant asked if there were contingencies for delays beyond their control.

Marwan Youssef suggested eliminating the sixty day requirement and making the requirement date for year one projects June 30, 2013 and year two projects June 30, 2014. Any requests for extensions would come back to the ECAC. Mary Anne indicated they would not have to come back to the ECAC since the extension process is built into the CTFP.

Abbe McClenahan said any delay requests would need to be approved by the OCTA Board and she cautioned requests for project delays can only be done twice a year. Any projects on the list waiting to be funded who decide to apply for the next round of funding will need to withdraw and reapply for funding in the new call for projects. Abbe McClenahan also recommended giving applicants more than sixty days.

The ECAC decided to withdraw the sixty day requirement for all agreements to be in place for project funding.

Dan Phu asked for a clarification: When the next round of funding is announced, would the four projects submitted which are not being funded need to formerly withdraw from the first round of funding and reapply for the next round? Abbe McClenahan said yes.

Gene Estrada asked for a clarification: Assuming the ECAC goes forward and approves the recommended top eight projects for funding, the remaining four projects stay on the list as contingency projects and can replace any of the top eight projects if they fall out. The problem is there are projects which may not have construction documents until June 30, 2014. If this is the case the contingency projects may not get a chance to apply again unless withdrawn. It would benefit these projects if the applicants withdraw and reapply.

Dan Phu said the applicants were given the choice of either the contract for this first call for projects on June 30, 2013 or by June 30, 2014. Two applicants selected the

June 30, 2013 (one recommended for funding and one not recommended) call for projects, and all other applicants chose the June 30, 2014 date.

Jean-Daniel Saphores said he would find it valuable to get a breakdown of how each project scored. Chair Mary Anne Skorpanich said after the list of projects have been approved the ECAC will do a meeting of "lessons learned" and what should be done about the program to fix things.

A motion was made by Marwan Youssef, seconded by Dennis Wilberg, and approved unanimously to move forward with the eight primary projects totaling \$12,708,314 for the Measure M2 Environmental Cleanup Program Tier 2 funding program and eliminating the contingency list of 4 projects.

4. Tier 1 Call for Projects

Dan Phu reviewed the latest changes to the Tier 1 Comprehensive Transportation Funding Programs Funding Guidelines

Page 3, first paragraph: Chair Mary Anne Skorpanich asked for the following correction: The Tier 1 projects **funded in the past** ~~generally~~ include the following types. ~~five types of projects~~. A description of each project type is provided below.

Page 3, first Paragraph: Dick Wilson had a problem with listing the irrigation system retrofits in #2. He does not believe this project qualifies for the Tier 1 Program and should not be highlighted. Dan Phu said this is addressed in the Score Sheet Section later in the Guidelines.

Dennis Wilberg disagreed. He felt water runoff from medians was a more obvious project for the Tier 1 Program.

Page 5, second paragraph under **Funding Estimates**: Gene Estrada said at one time the ECAC was thinking of increasing the amount for the Tier 1 program from \$100,000 to \$200,000 per project.

Gene Estrada proposed the following: Under **FY 2013 Tier 1 Implementation Timeline** last sentence: ~~Funds allocated by OCTA for each awarded project~~ **OCTA allocates funds in July 1 of each year. Funds will become** be available **upon execution of a Letter of Agreement.** ~~on July 1, 2013.~~

A motion was made by Gene Estrada, seconded by Marwan Youssef, and carried unanimously to change the maximum amount for the Tier 1 Grant Program to 250,000 per project.

Page 9, last bullet under **Ineligible Expenditures** • Landscaping installation and replacement are not eligible for funding consideration. Dennis Wilberg said this is not logical. If there is a turf medium and the turf is removed to fix the runoff, then replacing the turf would not be eligible. Chair Mary Anne Skorpanich said this is

because replacing the plants does not reduce runoff. The funding to replace plants would have to come from another source.

Alison Army reviewed the changes to the Tier 1 application and score sheet. A new question was added designed to award more points to projects which remove trash and debris over projects, such as irrigation, which do not remove trash and debris. The new question asks the applicant to calculate the total amount of trash and debris (including their calculations/justifications) that is project to be removed by each unit (cubic feet/unit/year). The project with the highest amount of trash and debris to be removed would be awarded 10 points and all other projects would be weighed against the largest amount. ECAC members engaged in a discussion about how accurate the applicants would be in predicting the amount of trash to be removed by their project. ECAC member said there were many factors such as location, storm water flow, land use, etc. that affect such a calculation. There were many suggestions as to how this question could be reworked to fairly award points to project removing the most trash and debris. In the interest of time, the ECAC decided to continue this item. Staff will work on the new question and discuss with the ECAC at the February meeting.

5. Public Comments

There we no public comments.

6. Committee Member Reports

John Bohorski asked to have a brief report from the County on recent court case events at the next ECAC meeting.

Dennis Wilberg asked if there have been any comments from the Regional Water Boards on the M2 Water Quality Program. He thought the Water Boards would be quite pleased with the work of OCTA. Chair Mary Anne Skorpanich said there are two nonvoting seats on the ECAC belonging to the Water Quality Boards but their participation has dropped off. Charlie Larwood said staff gives these members a call every couple of months to update them on the ECAC activities.

7. Next Meeting – TBD

The next regular scheduled meeting of the ECAC will be February 14, 2013 in the OCTA offices.

8. Adjournment

The meeting adjourned at 12:40 p.m.