

# **Environmental Oversight Committee Meeting Minutes**

**July 7, 2010**

## **Committee Members Present:**

Chair Patricia Bates, OCTA Board of Directors  
Vice-Chair Melanie Schlotterbeck, Measure M Support Groups  
Nancy Jimeno, California State University, Fullerton  
Dan Silver, Endangered Habitats League  
Jonathan Snyder, US Fish and Wildlife Services - **Teleconference**  
Adam Probolsky, Probolsky Research  
Erinn Wilson, CA Department of Fish and Game  
Greg Winterbottom, OCTA Board of Directors

## **Committee Members Absent:**

Veronica Chan, US Army Corps of Engineers  
Sylvia Vega, Caltrans

## **Orange County Transportation Authority Staff and Consultant Present:**

Ellen Burton, Executive Director of External Affairs  
James Staudinger, Right-of-way Specialist  
Marissa Espino, Senior Community Relations Specialist  
Janice Kadlec, Public Reporter  
Dan Phu, Project Development Section Manager  
Monte Ward, Measure M Consultant

## **Members of the Public**

Ed Sauls, The Sauls Company

### **1. Welcome**

Chair Patricia Bates opened the meeting at 10:10 a.m. and welcomed everyone. She asked everyone to join her in the Pledge of Allegiance.

### **2. Approval of June 2010 Minutes**

Chair Patricia Bates asked if there were any additions or corrections to the June 2, 2010 Environmental Oversight Committee (EOC) meeting minutes. There were no additions or corrections. A motion was made by Melanie Schlotterbeck and seconded by Nancy Jimeno to approve the June 2, 2010 EOC meeting minutes as presented. The motion passed unanimously.

### **3. Acquisition Proposals Update**

Monte Ward gave an introduction and overview of the Measure M2 Environmental Mitigation Program Draft Acquisition Plan. The Draft Acquisition Plan consisted of a chart identifying the tasks and responsible party, duration, and time schedule for each

task. Monte said staff is trying to do this as quickly as possible, but also recognize this is a complex project. This is a different process than OCTA normally undertakes; OCTA's property acquisition usually is through eminent domain, which dictates the type of acquisition process to follow. OCTA's existing staff is on new ground and is stretched thin with the acquisition process for current freeway and transit programs. Because of this, OCTA has obtained expert assistance in the form of a Conservation Specialist and a Property Acquisition Specialist. There will be a negotiating team consisting of the recently acquired two experts and OCTA staff (Monte Ward and/or Dan Phu). The negotiating team will consult with EOC and the T2020 at their regular meetings and/or special meetings called for in the acquisition process. These consultations related to the acquisition process will be in closed session until such time as accepted offers have been obtained. The Acquisition Plan Schedule is based on getting approvals and/or consent at the point described in the Plan and may be delayed if the approvals are not obtained.

Dan Phu walked the committee through the Draft Acquisition Plan describing the different Tasks.

Greg Winterbottom asked who would sign the letters of intent to appraise property. Dan Phu said the letters would be signed by the OCTA Right of Way (ROW) Manager and any future ROW letters would also be signed by this manager. Adam Probolsky asked if the EOC could get copies of these letters. Dan said they will copy the EOC on all correspondence.

Melanie Schlotterbeck suggested changing Task 12b to read "*Review acquisition costs based on appraised value, matching funds, and PAR*" because there are some opportunities where the cost can be offset.

Dan Silver said he would like to thank Dan Phu, Monte Ward, and the entire OCTA staff for the progress on the Draft Acquisition Plan. He suggested soliciting information from the property owners on how the Plan works or doesn't work for them. He summarized the main points: between now and the next EOC meeting there will be appraisal work done and informal discussions will have taken place with all 14 properties. Staff will then get back to the EOC at their August meeting with a preliminary list of priority acquisitions based on biology, preliminary appraisal cost, and on the informal conversations with the property owners. At that time, he agrees with the concept of options to facilitate the Committee in weighing a couple of alternatives. He would like to not only like to see the options to spend all the money available for this funding tranche, but also investigate borrowing from future tranches. This would enable the EOC to understand the benefit of dipping into future tranches.

Dan Silver said, between August and September, due diligence with title reports will be done on the preliminary list and the information returned to the EOC on September 1. On September 1 the final list will be complete on what is recommended to negotiate and buy. Dan Silver asked if meetings with the Working Group would be needed before September 1.

Monte Ward said Dan Silver was correct in his summary of the basic schedule and objectives. He made three observations: 1) the factors which will influence the strategic approach are the biological value of the property and how it fits into the strategic design held against impact to the Freeway Program. 2) Total cost and value – property cost plus endowment to maintain and manage the property. 3) The feasibility of a management solution – what factors would affect the long term management.

Monte said with respect to sharing of information and consultation, the intent is to have the negotiating team work through these issues with the property owners. The purpose is to have the negotiation team share this information and consult with the full EOC and T2020 Committee. It is important this information be considered and recommendations and/or input be gathered by all members of these committees. There may be a need for special meetings to meet this requirement.

Nancy Jimeno asked if Task 11 Appraisal Review was needed. It would save time if it was not needed. Dan Phu said this is a requirement per the Wildlife Conservation Board Department of General Services policies and procedures so as to not preclude OCTA from receiving federal funds in the future.

Nancy Jimeno asked if the landowners should investigate possible land management opportunities. Dan Phu said this has occurred already and the only caveat is there are certain requirements in the Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) with respect to long term management. It is important the Wildlife Agencies are aware of these types of strategies to make sure it is consistent with the requirements of the HCP/NCCP.

Dan Silver asked if the names of the consultants for the project have been made known to the all the EOC members. Monte indicated that the right-of-way specialist is James Staudinger, and Kevin Knowles is the Conservation Transaction Specialist. Paragon Partners have been retained to oversee the appraisal process.

#### Public Comments

Ed Sauls said he would like to offer encouragement, express concerns, and offer some solutions. He is making these observations with the best intent. He was asked by some landowners who could not be here to reconcile the current schedule with what they have been given before which stated escrows would be closing in August 2009 and now the schedule to close escrows is December 2010. The second part is what assurances can be given the current schedule can be held. He also suggested Dan Phu's specific recommendations for the August and September meetings make a great deal of sense.

Ed Sauls asked to reserve the opportunity to review the Acquisition Plan and then meet with staff to review some recommendations.

He made note one of the properties was scheduled to do a Phase 1 Environmental Report but this property already has this done.

Another recommendation was to look into combining properties, he noted 14 properties in Groups 1 and 2 are in the Trabuco area. He recommends the Conservation Biology Institute examine these properties as a collection of properties rather than wait until August or September to investigate this and receive answers to what a simple reserve would look like in this area.

Monte Ward said there is a difference in the schedules because this is not a process OCTA has followed before and it is difficult to predict something that has not been tried before. Adjustments in the schedule needed to be made to accommodate unforeseen issues and elements. Also, this is a public process and requires steps be taken to inform and allow for feedback and allow for policy makers on the EOC (the stakeholders committee), the T2020 Committee, and the Board Members to make adjustments or changes. In some cases they have asked and recommended things that are advisable and wise to do, but that takes time. In some cases, OCTA did not have the requested information and this took time to collect.

Monte said with respect to the current schedule, there are a number of risk areas which have passed by, however, there are some new ones. It is OCTA's intent to hold to the current schedule, but the risk areas involve the policy review. This is where he sees the highest risk. It is appropriate for the EOC, T2020, and the OCTA Board to question if they see something they feel needs more analysis or they need more information about. When this happens, it will add time. Assuming there are no major problems on a policy issue, this schedule will hold.

Chair Patricia Bates said staff has done an excellent job of explaining all aspects of the program at each approval level and it just takes one change to send it back to start the approval process all over again. She feels there is now a general acceptance of the process among the Board and Committee levels. She appreciated Mr. Sauls comments and welcomed any recommendations he might make.

A motion was made by Melanie Schlotterbeck and seconded by Dan Silver to adopt the Measure M2 Environmental Mitigation Program Draft Acquisition Plan. The motion passed unanimously.

#### **4. Restoration Proposals Update**

Dan Phu gave an update on the Restoration Proposals. Staff is currently preparing Restoration Guidelines, which will be very similar to the OCTA funding guidelines for the Streets and Roads Program. OCTA will be the funding agency for the Restoration Projects and there will be certain reporting as well as criteria that the applicant or project sponsor will need to meet.

Nancy Jimeno said there have been several letters circulated from the Great Park asking for more money. She asked if staff thought there would be more cases like this. Dan Phu said the letters specifically concerning the Great Park Restoration Proposal were made at the request of the Great Park Project sponsors. OCTA feels they have received enough information on all Groups 1 and 2 properties and should be able to recommend to the EOC and the T2020 Committee a set of restoration projects for funding.

Monte Ward said one of the things being looked at in the Restoration Criteria is support from other government entities. OCTA has actually encouraged applicants to write letters and this is entirely appropriate for the Great Park as well as other projects to have this kind of support expressed. The other element to the Great Park Project is OCTA will be just one part of a much larger project. The interest of policy makers from the federal or state level or other entities is probably part of the sponsors' seeking funding for other elements of the project.

Nancy Jimeno asked if OCTA had received any other of these types of letters from properties being considered for purchase. Monte Ward said not quite the same, but OCTA has received expressions of support from local government, stakeholders and the community.

Adam Probolsky asked if these had been passed onto the EOC. Monte Ward said he believes they have been passed on to the Committee or are part of the record as a testimony.

Melanie Schlotterbeck asked staff to make sure Environmental Coalition Acquisition and Restoration letters were passed out to the EOC. Marissa Espino said she would make sure it was sent out.

Dan Silver said it has been indicated on both acquisition and restoration, a biological strategic approach is preferred. He asked if OCTA had the ability to go back to CBI for their input. Monte Ward said OCTA still has a contractual relationship with CBI for purposes related to the original purpose of the contract. They have provided OCTA with all the data and information that went into the biological assessment. Additionally, they participated and were available for the evaluation process. The remaining elements are the strategic cost and the management component. Monte said, in answer to Dan Silver's earlier question of whether they can be consulted again if an evaluation was needed on a group of properties, he didn't know if enough capacity was in the contract to do this. Dan Phu said he would examine the contract, but cautioned if they were asked to do this it may impact the schedule.

## **5. Look Ahead Schedule**

Dan Phu presented the Renewed Measure M Environmental Mitigation Program Look Ahead Schedule and summarized some of the major upcoming activities.

**6. Public Comments**

No other members of the public spoke.

**7. Committee Member Reports**

Monte Ward announced, for the benefit of the property owners in the audience, that OCTA staff will be scheduling initial meetings with property owners over the next two weeks for the acquisition process.

**8. Next Meeting - Wednesday August 4, 2010**

The next meeting of the EOC will be Wednesday, July 7, at 10 a.m.

**9. Adjournment**

The meeting adjourned at 11:15 a.m.