

Environmental Oversight Committee Meeting Minutes

March 4, 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
Jonathan Snyder, US Fish and Wildlife Services
Sylvia Vega, Caltrans
Erin Wilson, CA Department of Fish and Game

Committee Members Absent:

Veronica Chan, US Army Corps of Engineers
Debbie Townsend, California Wildlife Conservation Board
Judy McKeehan, SWCA Environmental Consultants

Orange County Transportation Authority Staff Present:

Ellen Burton, Executive Director of External Affairs
Marissa Espino, Senior Community Relations Specialist
Janice Kadlec, Public Reporter
Ken Smart, Woodruff, Spradlin, & Smart
Monte Ward, Director of Special Projects

Members of the Public:

Rich Gomez, Saddleback Canyons Conservancy
Gloria Sefton, Saddleback Canyons Conservancy
Dennis McHale, Canyon Land Conservation Fund

1. Welcome

Chair Patricia Bates welcomed everyone to the meeting and asked Vice-Chair Melanie Schlotterbeck to lead the pledge of allegiance.

2. Minutes

Chair Patricia Bates asked if there were any corrections to the February 4, 2009 meeting minutes. There being no corrections, a motion was made by Cathy Green and seconded by Vice-Chair Melanie Schlotterbeck to approve the February 4, 2009 meeting minutes as presented. The motion passed unanimously.

3. Presentation Items

A. Citizens of the Santa Ana Mountain Communities of Silverado, Modjeska, and Trabuco Canyons

Rich Gomez of the Saddleback Canyons Conservancy gave a presentation on the areas in Silverado, Modjeska, and Trabuco Canyons, which they would like considered for the Measure M2 Comprehensive Mitigation Program.

Adam Probolsky asked if the properties identified in the presentation had applied for the M2 Mitigation Program? Monte Ward said all the properties identified in the presentation are part of the Green Vision Map and will automatically go through the screening process for the M2 Mitigation Program. Adam asked if the owners of the properties have requested to be included in the program? Vice-Chair Melanie Schlotterbeck said the Green Vision Map outlines acquisitions and restoration opportunities; it is not necessarily at the request of the landowner. The question will need to be asked at some point if the landowner would be a willing seller. Monte said the M2 Mitigation process is based purely on the willingness of property owners to participate. Since there will be more opportunities for acquisition than funds available, this will be one of the evaluations the EOC will make.

Dan Silver asked if Mr. Gomez knew what sort of development would be anticipated under the General Plan for the different canyons. He also wanted to know the level of threat for the different areas of the canyons. Rich Gomez said, generally, both the Foothill/Trabuco and Silverado/Modjeska plans have specific guidelines for development. There are several development projects, which have been considered in the past and may resurface again. They can provide more detail on the development plans and specific areas of threat if requested. Dan asked if, as in the case of Foothill/Trabuco, the estate lot pattern of development allowed by the General Plan applied to the other areas. Rich said yes it does.

Vice-Chair Melanie Schlotterbeck said, as a point of clarification, because the Green Vision Map is a baseline inventory, the organizations that contributed to the Map were not required to fill out the M2 Mitigation form. Adam Probolsky asked if every property in the Green Vision Map expressed interest in selling? Melanie said no, this was not the purpose of the map. Adam said his interest is having a running tally of willing sellers. However this is compiled, it would be very helpful. Rich Gomez said he would compile a list of willing sellers.

Chair Patricia Bates said the Committee would be holding a Workshop and it is her desire to have all groups make presentations. The criteria for funding consideration has been approved by the OCTA Board and suggested Mr. Gomez review his properties to see which would best fit with the various criteria. Rich Gomez said his coalition would be pleased to put together a matrix of both willing sellers within the criteria and framed against the General Plan. Cathy Green said

it is also important to know if different projects included groups who were proponents of Measure M.

Monte Ward said the Working Group suggested all projects undergo an initial screening against the resource values. It would be helpful to establish this first and then determine where the willing sellers are within the screening process. Adam Probolsky said in the future when considering a property, he wanted to know if he is looking at a willing seller. Chair Patricia Bates said it has been established earlier in the program that eminent domain is not in the purview of the EOC or OCTA.

Chair Patricia Bates said there was one member of the public who requested to speak. She introduced Dennis McHale from the Canyon Land Conservation Fund. Mr. McHale said Canyon Land Conservation Fund is a local 5013C organization dedicated to the preservation of the last remaining open land in the western edge of the Cleveland National Forest in Orange County, California. He reminded the Committee of the beauty that can be found in the canyon areas and urged them to remember this when making their decisions.

B. Brown Act

Ken Smart, OCTA General Counsel gave a general overview of the Brown Act with specific references to “serial meetings” and/or communications of committee members outside of the regular public committee meetings. He distributed copies of an excerpt from the Brown Act dealing with this subject and recent legislative action dealing with the issue.

Cathy Green asked if a subcommittee made up of staff from other government agencies would be subject to the Brown Act. Ken Smart said if the subcommittee was a permanent on-going subcommittee, it would be subject to the Brown Act. If the subcommittee has only a temporary purpose and was only meeting for a few months, then it would be an ad hoc subcommittee and not subject to the Brown Act.

Dan Silver asked if a number of committee members could take a field trip to inspect and be educated about property as long as they did not discuss anything among themselves. Ken said if it was a majority of the committee it could be set up as a meeting and properly noticed so members of the public could join the meeting.

4. Approval of Master Agreement and Planning Agreement

Monte Ward presented the Draft staff report to approve the agreements for the renewed Measure M freeway mitigation program. The staff report would go to the Transportation 2020 Committee and then the OCTA Board of Directors for approval. Approval of these recommendations by the OCTA Board would put in place the agreements necessary to begin expenditures for conservation and would ensure the first series of funding available under renewed Measure M would be available for that

purpose. It does not designate an expenditure of funds or specific allocation of funds, this would be subject to subsequent analysis and recommendations that would come through the EOC and OCTA Board.

Dan Silver asked for a clarification of Recommendation D, is it asking for \$60 million - \$30 million in each Fiscal Year? Monte said it is asking for \$30 million to be distributed in Fiscal Years 2009-2010 and 2010-2011 or \$30 million in two years. An additional \$30 million would potentially be available in Fiscal Years 2011-2012 and 2012-2013. The target for sales tax revenue is a changing number, but staff is confident of disbursement of the first \$30 million for early acquisition as the Renewed Measure M Ordinance called for. Adjustments can be made accordingly for further funding as the sales tax figures become clearer.

Dan Silver asked is there was any indication what will happen after the first five years in terms of availability of funds. Monte said there has been some extended forecasting and there is potential in years 2015-2016. Staff expects there will be some policy recommendation about how much funding will be available for acquisition, how much for restorations, and how much for management of properties. Within the NCCP/HCP process there will be an implementation plan, which will talk about requirements for maintenance and restoration of acquired properties. The EOC will have a role on ensuring the requirements are carried out.

A motion was made by Cathy Green, seconded by Vice-Chair Melanie Schlotterbeck and passed unanimously to approve the following recommendations:

- A. Approve the draft Memorandum of Agreement C-9-0278 among the Orange County Transportation Authority, United States Fish and Wildlife Service, California Department of Fish and Game, and California Department of Transportation to serve as the Master Agreement and guide the implementation of the Renewed Measure M Freeway Mitigation Program.
- B. Approve the draft Planning Agreement C-9-0279 among the Orange County Transportation Authority, United States Fish and Wildlife Service, California Department of Fish and Game, and California Department of Transportation to establish the process, roles, responsibilities and commitments for the preparation of the Orange County Transportation Authority Natural Community Conservation Plan/Habitat Conservation Plan.
- C. Approve draft Agreement C-9-0169 between the Orange County Transportation Authority and the California Department of Fish and Game in an amount not-to-exceed \$300,000 for staffing services to enable the Department to meet its responsibilities for preparation and timely approval of the Orange County Transportation Authority Natural Community Conservation Plan/Habitat Conservation Plan.

D. Authorize up to \$30 million from the Early Action Plan commercial paper program to be available in Fiscal Years 2009-2010 and 2010-2011 to enable implementation of Memorandum of Understanding C-9-0278, Planning Agreement C-9-0279 and Agreement C-9-0169 for contract services and for acquisition, restoration and/or management of conservation properties, subject to the provisions of these agreements and subsequent action by the Board of Directors.

5. Review and Prioritization for Early Acquisitions

Monte Ward reviewed the Freeway Mitigation Program Conservation Strategic Implementation Plan Process.

Dan Silver asked if there will be a consultant helping in the early interim action. Monte said yes, and staff will undertake the compilation of data so it can be packaged in an orderly fashion. It serves a dual purpose – it helps get in position for early acquisition and helps input into the NCCP/HCP process. Dan asked if there was a process for choosing the consultant. Monte said yes. The conservation assessment Request For Proposal (RFP) will be going out today and later a larger RFP will go out for the NCCP/HCP process.

6. Outreach Update

Ellen Burton announced plans for a workshop(s) in May to hear presentations on properties applying for the Mitigation Program. Vice-Chair Melanie Schlotterbeck said the internal subcommittee workshop is set for April 30, she felt it would be more beneficial to have the property workshop(s) occur before that meeting. Marissa Espino said they could schedule the workshop(s) in mid April; she will check the committee member's calendars and try for a Thursday evening.

7. Public Comments

Gloria Sefton from the Saddleback Canyons Conservancy spoke to the committee about the importance of public access to the Cleveland National Forest. Current access from Trabuco, Modjeska, and Silverado Canyons is limited and it is difficult to gain access for the public to hike, bike, or ride horses without crossing private property. It would be wonderful to have marked areas of public access to the Cleveland National Forest; many of the properties discussed in the previous presentation would provide the bridge. Another great feature of these properties is the proximity to O'Neal Regional Park. There has been a tremendous amount of litigation in the past over many of the proposed properties and acquisition would eliminate future need for costly litigation.

8. Next Meeting

The next meeting of the Environmental Oversight Committee will be April 1, 2009 at 10 a.m.

9. Committee Member Reports

There were no further reports from Committee members.

10. Adjournment

The meeting adjourned at 11:25 am.