

Environmental Oversight Committee March 9, 2011 Meeting Minutes

Committee Members Present:

Chair Patricia Bates, OCTA Board of Directors
Vice-Chair Melanie Schlotterbeck, Measure M Support Groups
Veronica Chan, US Army Corps of Engineers
James Kelly, Measure M2 Taxpayers Oversight Committee
David Mayer, CA Department of Fish and Game
Adam Probolsky, Probolsky Research
Dan Silver, Endangered Habitats League
Jonathan Snyder, US Fish and Wildlife Services
Debbie Townsend, California Wildlife Conservation Board
Sylvia Vega, Caltrans
Erinn Wilson, CA Department of Fish and Game
Greg Winterbottom, OCTA Board of Directors

Committee Members Absent:

Chris Flynn, Caltrans
Nancy Jimeno, California State University, Fullerton
Dave Means, California Wildlife Conservation Board

Orange County Transportation Authority Staff Present:

Marissa Espino, Senior Community Relations Specialist
Janice Kadlec, Public Reporter
Dan Phu, Project Development Section Manager
Monte Ward, Measure M2 Consultant

1. Welcome

Chair Patricia Bates welcomed everyone to the meeting at 10:05 a.m. and asked James Kelly to lead the Pledge of Allegiance.

2. Approval of February 2, 2011 Minutes

Chair Patricia Bates asked if there were any additions or corrections to the February 2, 2011 Environmental Oversight Committee (EOC) meeting minutes. There were no additions or corrections. A motion was made by Melanie Schlotterbeck and seconded by Adam Probolsky to approve the February 2, 2011 EOC meeting minutes as presented. The motion passed unanimously.

3. Call for Candidate Acquisition Properties

Monte Ward reviewed the recent actions of the OCTA Board to consolidate the first two rounds of funding for property acquisitions into one single block of \$42 million, to proceed with making offers and negotiating purchases for properties evaluated, and

also open up the recruitment for any additional properties to be considered. This process is now complete.

Dan Phu gave a synopsis of the process for property acquisition recruitment. He indicated one property owner responded past the date for final consideration but will be added to the list at a later date. The information presented to the committee members did not reflect this property but the members will receive updated materials. Dan Phu went on to describe the materials presented to the committee members. The new properties were grouped in four groups on the 2011 Acquisition Properties Evaluation (Biological Criteria) and today's recommendation to the EOC is to add the three properties in Group 1 to the list of properties for acquisition consideration.

Dan Silver asked if the list of properties presented is made up of solely new properties being added to the process. Dan Phu said there is some overlap with the previous list of properties, depending if the owners made changes to their previous property description.

Jonathan Snyder gave a brief description of the three properties in Group 1- Aliso Canyon, Irvine Mesa Corridor, and Shell-Area (HOSEC).

Dan Phu said the Irvine Mesa Corridor will require a different approach to acquisition. It is currently owned by a non-profit private entity, which has faced financial hardship over the last several years. One of the options may be for OCTA to provide endowment for the long term maintenance and management of the property and in return OCTA would get pro-rated mitigation credit. The wildlife agencies have requested a high level valuation of the property to ascertain the management cost requirements. This would not require a full appraisal of the property, but a comparable sales analysis, which should cost less. Another significant factor is the current owner acquired this property via a confidential donation, which may hinder OCTA's ability to acquire the property. In preliminary discussions with the Wildlife Agencies, they have indicated OCTA could, through an endowment process, receive mitigation credits given the property's high biological potential.

Melanie Schlotterbeck asked if she was correct in understanding OCTA would not have the property title but would provide an endowment and receive mitigation credit for the endowment and the land would stay in the ownership of the existing management. Dan Phu said this is correct. The Wildlife Agencies also required that proper deed restrictions or conservation easement be placed on the property prohibiting future development if OCTA were to invest in an endowment.

Monte Ward said, essentially, this would require some form of conservation easement with funding to provide for the long term management. The amount of benefit OCTA would receive relative to the freeway projects would be proportional to the vested interest in the property. The investment for this would be far less than it would be for an actual purchase, but would still be leveraging the opportunity to participate in the

preservation of the habitat in the area. This is part of the idea of making strategic investments, which have the greatest benefit for design of a preserve.

Dan Silver said he felt the EOC should know more about this very unusual situation. Is there any conservation easement on it now? Dan Phu said not to our knowledge. Dan Silver said there seems to be a great many complexities to be looked into.

Monte Ward said aside from doing a high level evaluation, some of the other questions need to be explored. This would help to establish the basis to endow the long term management. They would also need to know what the pro-rata benefit would be to the Freeway Program. Once all the information is obtained, it will be shared with the EOC to make sure this is the appropriate direction to go. It was felt this property should be in the recommendation to do the next step and do the evaluation based on the value of the habitat and the strategic location.

James Kelly asked why the value would have anything to do with endowment. Jonathan Snyder and Melanie Schlotterbeck explained it was necessary to understand the value of the property to support the mitigation credit formula. Monte Ward said a full appraisal of the property is not necessary. James Kelly asked if OCTA's appraisals of properties in the area would be enough. Melanie Schlotterbeck said comparable values are only what has been sold; appraisals cannot be used. Melanie Schlotterbeck said the cost of a full appraisal is \$8,000 to \$20,000 depending on the complexity of the property where as the cost of the type of appraisal needed here is \$6,000. Furthermore, the level of effort for management cost commensurate with the value of the property.

Chair Patricia Bates asked if the EOC was going to get all the information on the Irvine Mesa Corridor property before going into the purchase of the other properties. Dan Phu said the current owner is more than willing to come in and present to the EOC or a smaller subgroup and explain the nuances to this particular property, including the property history, and answer any questions. Monte Ward said, in answer to the question of would this or any other properties being put into the queue be disadvantaged, to some degree it is likely some of the funding will have been committed by the time the appraisals are finished for these properties. There will still be substantial funding available to consider the three new properties along with the remaining properties.

Dan Silver asked if the Shell Aera (HOSEC) property being considered was part of the development proposed for this property. Melanie Schlotterbeck said the proposed property would be part of the commercial development. Dan Silver asked if the completion of development on the rest of the property would have a biological impact on the property being considered. Melanie Schlotterbeck said based on the development plan, she had seen (including the Orange County portion) the wildlife corridor goes across the 300 acres and into a canyon towards La Habra Heights, they would not be able to build in this canyon. Very few houses were going to be allowed

on the La Habra Heights side; the majority of the development was going to be in the Diamond Bar area.

Dan Silver asked why some of the Group 2 properties failed to meet the Group 1 list. He saw several good properties on the Group 2 list. Dan Phu said some of the Group 2 properties by themselves have very good biological value, but there were other factors that kept them out of Group 1.

Jonathan Snyder and Sylvia Vega reviewed the Group 2 properties with the EOC and gave a brief description.

Monte Ward clarified Group 1 and Group 2 would continue to be under consideration. Group 1 properties would receive an appraisal and further analysis. If the opportunities for consideration of a Group 1 property are exhausted, then a Group 2 property could be moved up for consideration.

Chair Patricia Bates asked how the Group 2 properties were prioritized. Monte Ward said Group 2 did not receive the same level of analysis as Group 1, although the criteria used was how do they fit in relationship to other properties, how do they fit in terms of cost and funds available, and what are the issues and challenges in terms of management. The other factor would be highest biological value and the overall strategy for purchase.

Dan Phu said in July 2010, the OCTA Board gave authorization to the EOC to consider Group 2 properties if needed.

A motion was made by Melanie Schlotterbeck, seconded by Adam Probolsky and carried unanimously to:

- A. Endorse the ranking of the 36 candidate acquisition properties based on the OCTA Board-established acquisition, restoration, and management criteria.
- B. Recommend to the OCTA Board Committee and OCTA Board for approval of the three Group 1 properties to be considered along with the \$42 million approved by the Board in November 2010 for acquisition.
- C. Recommend an appraisal of two of the three Group 1 properties and a comparable sales assessment for the third Group 1 property.
- D. Recommend to the OCTA Board Committee and OCTA Board for approval of the six Group 2 properties to be considered as contingency properties for possible acquisition.

It was clarified by Director Bates and confirmed by Monte Ward that the referenced OCTA Board Committee would be the Executive Committee since the Transportation 2020 Committee is only meeting on a quarterly basis.

4. Restoration Proposals Update

Dan Phu gave an update on the Restoration Project proposals. He said with the exception of two proposed projects, OCTA has obtained concurrence with the wildlife agencies for the restoration plans – they are satisfactory for OCTA's mitigation purposes. The City of Anaheim's proposed project was re-evaluated and required additional funding. For the first round of funding, all available money had been allocated. This project will be considered for the second round of funding and the money allocated will also be added to the second round of funding.

Dan Phu also reported OCTA is gearing up for the next round of funding for fiscal year 2011/2012. A mass mailing, which will include a project application, will be sent in July 2011.

Dan Phu said OCTA has executed an agreement with the Army Corps of Engineers addressing the water quality permits. In discussions with the Corps, they put more emphasis on the restoration projects and the impact of the freeway projects on watersheds and tributaries. This would affect the SR-91 and SR-57 freeway projects along the Santa Ana River.

Melanie Schlotterbeck asked when the start dates would be for starting the restoration projects. Dan Phu said it will be different from one project to another. Most will start a little later in the Spring 2011. Some may even start later due to avoidance of the nesting bird season or taking advantage of the rainy season.

5. Public Comments

No one from the public spoke

6. Committee Member Reports

Monte Ward said there have been a few instances where representatives have contacted OCTA after the cut-off date for submitting acquisition property proposals. They were not allowed to participate because they did not meet the specified date. However, they have been put into the database and will receive information and notification on the next call for projects. They have also been offered briefings on the program and process.

7. Next Meeting – Wednesday April 6, 2011

The next meeting of the EOC will be Wednesday, April 6, 2011 at the OCTA offices.

8. Adjournment

The meeting adjourned at 4:10 p.m.