

Measure M2 Environmental Oversight Committee

November 20, 2013
Meeting Minutes

Committee Members Present:

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

Committee Member(s) Absent:

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

Orange County Transportation Authority Staff Present:

Marissa Espino, Senior Strategic Communications Specialist
Lesley Hill, Project Manager
Janice Kadlec, Public Reporter
Dan Phu, Environmental Programs Manager
Monte Ward, Measure M Consultant

Guests

Gloria Sefton, Saddleback Canyon Conservancy

1. Welcome

Chair Patricia Bates called the Environmental Oversight Committee (EOC) meeting to order at 8:30 a.m. She asked Philip La Puma to lead the Pledge of Allegiance.

2. Approval of the September 4, 2013 Minutes

A motion was made by Melanie Schlotterbeck, seconded by Lori Donchak, and passed unanimously to approve the September 4, 2013 EOC meeting minutes as presented.

3. Fall 2013 Wilderness Preserve

Marissa Espino reported OCTA conducted a wilderness preserve tour at Ferber Ranch on Saturday, Nov. 17, 2013. They had a good crowd of approximately 100 people and good hiking weather. It was a great opportunity to invite everyone onto

the property and share information about the mitigation program. OCTA may do this again in the spring.

Monte Ward noted that the equestrian groups were self-guided and commended the equestrian group leaders who helped plan the equestrian tour.

Melanie Schlotterbeck said several people commented to her on how great it was to have the mounted enforcement units from the Sherriff's department there.

4. NCCP/HCP and EIR/EIS Presentation

Dan Phu and Lesley Hill gave a presentation on the Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) and Environmental Impact Report/Environmental Impact Statement (EIR/EIS). The presentation was given in preparation for release of the NCCP/HCP and EIR/EIS for public comment in the early part of 2014. This would not have been possible without the support and leadership of the EOC and the OCTA Board of Directors. Upon endorsement by the EOC, the recommendation will go to the OCTA Board of Directors in early 2014 to seek authorization to release the NCCP/HCP and EIR/EIS for a 90-day public comment period.

Monte Ward clarified while the Resource Management Plans (RMP) should be completed on a concurrent schedule with the NCCP/HCP, it is not specifically part of the action taken to approve the Conservation Plan.

Monte Ward also touched on the portion of the report describing Property Land Managers. He said this means OCTA is basically "on the hook" and responsible for proper maintenance and implementation. Regardless of whether there is a third party land manager or the title of the property is transferred to another entity and/or a portion of all of the funds are transferred to another entity – OCTA is still responsible for performance and meeting the obligations of the plan.

Chair Patricia Bates asked how long would this be. Monte Ward said in perpetuity. It is very important to understand this when future recommendations are brought forward on how the endowment should be set up, what assumptions are being made, who is going to be managing the properties, etc. The resource agencies will be looking at this and OCTA will have this responsibility.

Chair Patricia Bates asked if the Plan Administrator was the same as the overall responsible person. Monte Ward said basically yes. It would be OCTA's recommendation that OCTA maintain the overall responsibility and the ability to carry it out. One of the ways to do this is to hold a conservation easement for the property or to have control over the funding or resources.

Lesley Hill said the Plan does layout a description of the roles of responsibility and this includes a role for the EOC. There will be specific actions and input required of

the EOC. The EOC would have an active role in the process before going to the OCTA Board.

Chair Patricia Bates said she believed it would be very important for the OCTA Board to really understand this. She believed the EOC is viewed currently as not a standing committee but an ad hoc committee. Going forward with the new responsibilities such as oversight of the Plan Administrator and others she suggested educating the OCTA Board because of the turnover on the Board. Monte Ward said they are planning to make presentations to the Board Committees and the Board on this particular matter. This is the time to start the dialog and to be clear as to what the responsibilities will be going forward and where the responsibilities are placed.

Dan Phu presented an estimate of what would be required for the long term management of the properties. Monte Ward said the information brought forward by Dan Phu was a working estimate for the endowment. It is higher than what was estimated two years ago. The reason for this is some of the properties have issues with access and encroachment. There will be further input on what the number will be and it will come from continued experience in managing the property in the interim period, it will come from doing an analysis on each property (e.g., PAR), and it will come from some sort of agreement with the long term land manager which specifies what they are going to do and what it will cost. In every step they refine the costs and get a tighter bead on what the final number will be.

Monte Ward said there is a revenue stream for Measure M through the sales tax. A portion of this is carved out and identified as the revenue stream for this program. A portion of this has been set aside for this program. That revenue stream is going to pay for future expenses which will include interim management, some of the restoration projects, other expenses, and depositing money on an annual basis until enough money is deposited for the endowment. There will be an eight to 10 year period where expenditures need to be made leading towards completing this package.

Chair Patricia Bates asked if this would include any additional acquisitions. Monte Ward said this would be something to be looked at during this period – what is being done in terms of additional acquisition. At the end of the period once everything is set up – what do you do going forward. Essentially the obligations will have been met under the NCCP/HCP and there will be future revenues which are not required to meet these obligations. This will require an additional policy discussion.

Chair Patricia Bates asked if money could be moved into the water quality program. Monte Ward said if any money is moved within the plan the Taxpayer's Oversight Committee must endorse it as well as two-thirds of the OCTA Board.

Lori Donchak suggested when the long term preserve management goes to the Finance and Administration Committee to be as conservative as possible with the line

item. Monte Ward said he understands this and he feels they should also be clear they are using working numbers. They want to demonstrate to the public and the resource agencies they have the capacity to adequately manage these properties because they have a revenue stream that can create the endowment. Before the money is spent on something else, they want to make sure they are covering their obligations. Lori Donchak also added that having been involved with the O'Neill Land Conservancy, she thought the cost for land management might be closer to a magnitude of at least one to one.

Melanie Schlotterbeck asked for a clarification. Is the \$8 million over the next two years what is needed for the interim management and \$30 million more will be asked for to total \$38 million in management? Monte Ward said the \$8 million includes expenses going forward about ten years. Dan Phu said setting up the account for the endowment is going to take eight to 10 years to accumulate, even with the \$30 million. While the account for the endowment is being set up they will need to use the existing revenue for annual operating costs. The \$8 million includes money spent up to this point for the five properties acquired and up to a 10-year period for future acquisitions as well as those they have actually acquired.

Melanie Schlotterbeck asked if they foresaw the future restoration activities also overlapping with the Regional Water Quality Control Board. Monte Ward said some of them could and they are making a real effort to get "bang for the buck." They have made some recent tours with the Army Corps of Engineers to both restoration and acquisition sites and we are getting credit for some of the work.

Melanie Schlotterbeck said in the next call for projects for restoration projects they need to be strategic in what they are asking for. Monte Ward said absolutely and going forward this will be the benchmark – what is the strategy dictated by the Plan as well as the Regional Board and the Corps of Engineers. Added to this, they need to make sure they can appropriately manage the preserve properties going forward.

Melanie Schlotterbeck asked if the \$30 million figure being discussed is for year 10 into perpetuity. Monte Ward said yes, and the endowment needs to be large to manage into perpetuity.

Melanie Schlotterbeck said from the conservation community's point of view the NCCP/HCP was the mechanism OCTA chose to conserve these properties. It is important to note even though the goals and objectives of the Conservation Plan have been met it still does not meet the M2 Ordinance objectives which state \$243.5 million has been set aside for acquisition, restoration, and management. This will be an important discussion in the future.

Dan Silver asked what the projection of \$134 million at the bottom of the future revenues chart signified. Monte Ward said the current projection is a little under \$300 million in escalated dollars and the \$134 is nominal dollars. There are substantial

additional revenues but they are not available today; they are available in the future. In order to do additional activities within the scope of this would require borrowing against future revenues.

Dan Silver asked about future borrowing. Monte Ward said that is not part of the NCCP/HCP. They have obligated themselves to meet the requirements and goals of the NCCP/HCP using M2 funds and putting the acquisitions and restorations against those obligations. They need to get the Plan approved and implementing agreements done and the funding needs to be identified and secured. The current spreadsheet addresses this. A future spreadsheet can be developed about what happens after these obligations have been met. The important point right now is to identify that OCTA has the ability to meet the Conservation Plan obligations with this level of funding.

Dan Silver said he understood and this is fine. He just didn't want to see any of the money leave the program; he wanted to keep the option of borrowing on future revenue open. He is worried someone may see extra money and want to move it to another project.

Dan Silver asked if they needed to put all the endowment money in this early. Monte Ward said the longer we wait to put it in the longer it takes to get to a sufficient level for interest earnings. It is an accounting or spreadsheet exercise; whether the money is put in early or late, the cost still need to be paid. OCTA's initial assessment is to put it in early, get it done, get it to a point where it might be earning interest. Dan Silver asked if there might be a trade off – you might have less money to buy land. Monte Ward said they are trying to keep the endowment number as low as possible and still meet the obligations.

Dan Silver discussed his views on bare bones management and OCTA's role of being a second eye. He felt public access resulted in higher costs for management and did not feel it was M2's job to fund this. If OC Parks wanted to have public access they should fund it – it is not M2's job and it should not be part of the endowment.

Monte Ward said they have always looked at public access and the costs associated with it as what is necessary to protect the resources expended to protect the habitat and species the land was purchased for. The reason it becomes more costly when public access is involved is because not everyone follows the rules. This can be helped by having trained docents, having a managed access program, or having partnerships with the neighboring communities so that they buy in to the habitat and species.

Chair Patricia Bates said there needs to be a balanced approach and this can be done by developing a set of guiding principles which go to the OCTA Board after being approved by the EOC. Her job is to reflect what the Board might say from their perspective and then to bring the EOC's perspective to the Board and try to blend

them. She said she thought there could be an issue with purchasing more land if the requirements for the mitigation of the Freeway Program were already met. This puts a bigger obligation on the long term goal of the OCTA. This is where finding guiding principles and getting them to the Board for their acceptance is critical. She believes they need to start with the EOC with guiding principles regarding access and what should be done with the additional money. More acquisition puts a big responsibility in perpetuity on an agency whose responsibility is building roads and providing mobility. They have an obligation to meet the resource agencies requirements. How much beyond that for the mitigation of a road does the group have? What is the guiding principle that reflects what the taxpayers wanted? Let us not separate the EOC from the water quality portion of M2 – everybody's front door flows to the ocean.

(Chair Patricia Bates left the meeting at this point for another meeting and Vice – Chair Melanie Schlotterbeck chaired the rest of the meeting.)

Dan Silver asked if the need to not only subsidize mitigation but to enhance mitigation was built into the NCCP/HCP. Dan Phu said yes, this is a component of the initial findings of the document. David Mayer agreed the answer was yes. With respect to covered species, each species was looked at both individually and also to what is happening in Orange County – how things connect and how the system works better because of the OCTA Environmental Program. The financial aspect in section 6 on leveraging future money has been very much on their minds.

Derek McGregor asked if the NCCP/HCP was the guidelines for the restoration and if the Resource Management Plan (RMP) was the implementation of those guidelines. Monte Ward said the Conservation Plan or the NCCP/HCP sets out what is being done in terms of creating a preserve and doing restoration to deal with the impacts of the freeway projects and has a net contribution towards the conservation of the affected species. Out of this comes an implementing agreement everyone signs off on. The RMP is a tool used to describe property by property how the obligations will be met and how the properties will be managed. It is a separate document for each property and a separate process in terms of development, but it comes out of what is described in the Conservation Plan and what is being agreed to in the implementing agreement. They go forward and set up a structure for management, OCTA will not be the managers of the property. There will be third parties who do this. There will be some arrangement on how the endowment is held. There will be a conservation easement put over each of the preserves, decisions on who holds the conservation easement, decisions on who actually has title to the property, and other details which will be addressed as they go forward.

Derek McGregor asked if the Conservation Plan has to be in place before the RMP. Monte Ward said they feel they have sufficient information through the draft Conservation Plan to start developing the RMP for each of the properties and have started this process. David Mayer added the NCCP/HCP provided a framework for management of the properties. How it plays out on any individual property reflects

what that property's needs are for species, connectivity, public use, and all that goes with it. For the NCCP/HCP permit to be issued by the State, findings need to be made and one of which is whether an adaptive management plan will be part of the program.

Melanie Schlotterbeck asked if the NCCP/HCP would be on the OCTA website in January 2014. Staff agreed it should be available by early 2014.

A motion was made by Lori Donchak, seconded by Nancy Jimeno, and passed unanimously to:

- A. Endorse the Release of the Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) and Draft Environmental Impact Report/Environmental Impact Statement (DEIR/EIS) for a 90-day public comment period.
- B. Direct staff to prepare a long-term expenditure plan of the Environmental Mitigation Program funds for review by the Environmental Oversight Committee and the Finance and Administration Committee.

Vice-Chair Melanie Schlotterbeck asked if the EOC would like to activate the Ad Hoc subcommittee to create a finance subcommittee similar to the Ad Hoc Subcommittee on Habitat Impacts. It might prove helpful to brainstorm some of the things that came up today. Jonathan Snyder, Dan Silver, Dave Mayer, and Melanie Schlotterbeck volunteered for the subcommittee. Staff will set up the subcommittee and report back at the next EOC meeting.

5. Staff Report

Dan Phu reported back on comments made at the September EOC meeting on security at the Ferber Ranch property.

6. Public Comments

Gloria Sefton, co-founder of Saddleback Canyon Conservancy: Addressed her concerns about the fencing in Trabuco Canyon. Large animals are becoming entangled in the "five wire" fencing now being used to replace the previous "three wire" fencing.

Gloria also asked about the 13 transportation projects. Is there a quantitative balance between the 950 acres that have been acquired and/or restored and the 13 projects? Jonathan Snyder responded that the NCCP/HCP covers and explains the accounting of the proposed impacts (freeway projects) and proposed mitigation (acquisition properties and restoration projects).

7. Committee Member Reports

Vice-Chair Melanie Schlotterbeck reported the Orange County Business Council has an award ceremony this evening and Friends of Harbors Beaches and Parks has nominated OCTA and its Environmental Mitigation Program for the sustainability award.

Nancy Jimeno introduced one of her students who was attending the EOC meeting as part of her College Political Science requirement to attend a community meeting. She applauded the student for attending the meeting.

8. Next Meeting – TBD

The next EOC meeting will be determined at a later date.

9. Closed Session

The EOC adjourned to Closed Session at 10 a.m.

Pursuant to Government Code Section 54956.8 the EOC adjourned to discuss the price and terms of payment for the acquisition of the following real properties.

The negotiator for OCTA is Dan Phu. The negotiators for the real properties are as specified.

Real Property	Geographic Area	Assessor's Parcel Number	Owner's Negotiator	Acreage
Aliso Canyon	Coastal	056-240-66	John Mansour	150
Irvine Mesa Corridor	Cleveland Nat'l	105-060-02, 105-060-09, 105-060-19, 105-051-36, 876-011-02, 876-011-03, 876-011-19, 876-011-07, 876-011-08, 876-011-11, 876-011-18, 105-051-18, 876-021-15, 876-021-04, 876-021-05, 105-051-33, 105-051-21, 105-051-57, 105-201-12, 105-201-11	David Meyers	670
Holtz Ranch (CCRC Farms LLC)	Cleveland Nat'l Forest	876-034-01, 876-041-01, 105-051-83, 105-051-84, 105-051-85, 105-070-93	Brad Schnepf	327.9
MacPherson	Cleveland Nat'l Forest	105-051-06, 105-051-08	Craig MacPherson	216.7
Mitchell Properties West	Trabuco	842-081-12	Steven U. Parker	101.7
Saddleback Meadows	Trabuco	856-071-01/09, 856-072-01/51, 856-073-01/58, 856-074-01/45; 856-075-01/57, 856-081-01/11, 856-082-01/44, 856-083-01/46, 856-084-01/37, 856-085-01/41, 856-086-01/37, 856-091-02/11, 856-092-01/42, 856-093-01/25, 856-094-01/34, 856-095-01/62, 856-096-01/57, 856-097-01/34, 856-098-01/37	William Fleissig	222
Sky Ranch	Trabuco	842-021-4, 05, 07, 08 and 842-031-04, 05, 08, 09	Dave and Michael Eadie	526.9
Takahashi (Baker Square LLC)	Cleveland Nat'l Forest	105-051-12	Carl Reinhart	643
Watson	Trabuco	858-021-10, 11	Dave and Michael Eadie	98.3

10. Adjournment

Closed session adjourned at 10:30 a.m. and there were no further actions reported in public session.