

Measure M2 Environmental Oversight Committee

November 2, 2011

Meeting Minutes

Committee Members Present:

Chair Patricia Bates, OCTA Board of Directors
Vice-Chair Melanie Schlotterbeck, Measure M Support Groups
Nancy Jimeno, California State University, Fullerton
James Kelly, Measure M2 Taxpayers Oversight Committee
Adam Probolsky, Probolsky Research
Dan Silver, Endangered Habitats League
Jonathan Snyder, US Fish and Wildlife Services
Greg Winterbottom, OCTA Board of Directors

Committee Members Absent:

Veronica Chan, US Army Corps of Engineers
Chris Flynn, Caltrans
David Mayer, CA Department of Fish and Game
Dave Means, California Wildlife Conservation Board
Sylvia Vega, Caltrans

Orange County Transportation Authority Staff Present:

Ellen Burton, Executive Director of External Affairs
Marissa Espino, Senior Community Relations Specialist
Lesley Hill, Planning Department Project Manager
Janice Kadlec, Public Reporter
Dan Phu, Project Development Section Manager
Monte Ward, Measure M2 Consultant

Members of the Public

Michael O'Connell, Irvine Ranch Conservancy
Derek Ostensen, Laguna Canyon Foundation and City of San Juan Capistrano Consultant

1. Welcome

Chair Patricia Bates welcomed everyone to the meeting at 10 a.m. and asked Adam Probolsky to lead the Pledge of Allegiance.

2. Approval of October 5, 2011 Minutes

Chair Patricia Bates asked if there were any additions or corrections to the October 5, 2011 Environmental Oversight Committee (EOC) meeting minutes. The following corrections were requested:

- James Kelly asked for a correction on Page 3, Item 7: “*The next meeting of the EOC will be ~~October 5~~, **November 2**, in the OCTA offices*”.
- Nancy Jimeno asked for the following correction on Page 3, Item 6, first sentence: “*Nancy Jimeno asked if the letter asking questions of the **EOC from the** land owners regarding the possibility of purchasing their property had been addressed yet.*”

A motion was made by Greg Winterbottom, seconded by Melanie Schlotterbeck, and passed unanimously to approve the October 5, 2011 EOC meeting minutes as corrected. The motion was carried unanimously.

3. Acquisition Properties

A. Appraisal Status (Aliso Canyon, Irvine-Mesa, and Shell-Aera): Dan Phu gave an update and overview of the appraisal process on the Aliso Canyon, Irvine-Mesa, and Shell-Aera properties. The appraisals on the Aliso Canyon and Irvine-Mesa properties should be completed by December as expected, but there is still a delay regarding Shell-Aera. Dan said staff is trying to come to a consensus on the approach of the appraisal process. Staff wants to make sure they are making correct assumptions on the property given that 2,600 of the 2,900 acres are in Los Angeles County. Even though staff would only appraise the 300 acres that is in Orange County, the appraiser still needs to be on the same page as far as the access and other additional parameters with respect to the larger property. Dan requested the EOC discuss if a response deadline for the Shell-Aera property needed to be established.

Monte Ward recommended that it should be determined if staff is moving forward with an appraisal by the end of the month. They could move forward with the appraisal without the owner’s response, but it would not service OCTA well because if they cannot get agreement on some of the assumptions any offer would most likely be worthless and why spend the money if that is going to be the case, and, secondly, this issue ties up moving forward on purchasing any other properties. Therefore having a firm deadline would be a good idea.

Chair Patricia Bates suggested a firm 30-day deadline should be established. The EOC agreed to move forward with the 30-day deadline.

B. Recommendation: Endorse staff’s recommendation to accept funds from the State Parks Foundation to go towards the acquisition fees of the Hayashi property.

Lesley Hill gave background on the proposed endorsement. Adam Probolsky asked if accepting the funds would in any way affect the former property owner. Monte Ward said no. He said there is more concern the transaction may involve applying the funds to a particular parcel(s) within the property purchased. A

determination needs to be made that, within the transaction, the more valuable resources are not being depleted. For example, there is a watershed on the property and there are not many river watershed acquisitions made within the north county area. This needs to be done in a way that keeps the integrity of the preserve. At the same time, full advantage is being taken of the fact there is funding available to be applied in the area and if it is applied the money saved or created can be applied to other purchases.

Adam Probolsky asked for an explanation of how accepting these monies could compromise the EOC's ability to acquire property. Monte Ward said one of the ways the transaction may take place is if the money is used to affect the purchase of one of the parcels, the EOC would not get credit for that purchase. Negotiations need to take place in order to be consistent with the objectives.

Nancy Jimeno asked if these were some sort of matching funds. Monte Ward said yes there would be matching funds. Nancy Jimeno asked if mitigation credits can still be obtained. Monte Ward said a portion of the credits for the Hayashi property would be taken out but the money saved on this property would go back into the pot to be used to purchase other properties. The important thing is any unique or special resources of the identified parcel(s) are not lost with this purchase. Monte Ward said Lesley Hill will do a site visit to the property to determine where the parcel(s) are and where the resources are located.

Dan Phu noted the indicated figure of "up to" \$700,000 is due to a lawsuit settlement in which there is a requirement for the State Parks to ultimately take ownership and manage the piece being sold off. OCTA needs to work with the State Parks and Hills for Everyone in order to determine what the long term endowment cost would be for the 56 acres.

Chair Patricia Bates said it was very difficult when there is an action item on the agenda to endorse staff's recommendation and there is virtually no back-up material attached to it. Even though information is being provided now with questions from the Committee, this should be part of the record, so before the members get to the meeting, they understand what they are being asked to do. She is not going to prevent taking action on the item but consider her comments to be a strong admonition. Next time, there must be backup material provided before the meeting because this does have implications for the mitigations being requested from the resource agencies and this does go before the OCTA Board.

James Kelly asked if there are still negotiations going on with the property. Monte Ward said yes, there will be more negotiations before there is an agreement. What staff is looking for is concurrence from the EOC for further discussions on this and eventually bring an agreement back to the EOC for approval.

James Kelly said in the recommendation it says the money will go toward acquisition fees. What does this mean – there typically is a difference between fees and costs? Dan Phu said this money will go toward the acquisition costs.

Nancy Jimeno asked if the management of the 56 acres would go under the agreement already established with the State Parks. Dan Phu said no, it would be a separate responsibility.

Chair Patricia Bates said the direction from the EOC would be to include these proposed funds in the negotiations going forward after answering all the questions raised at the committee meeting then bring it back as a consent item. Dan Phu said in the future staff will include a memo giving information about the item and all the issues associated with it. Chair Patricia Bates said this would be very helpful.

Greg Winterbottom asked if this was a time sensitive item. Dan Phu said it doesn't seem to be time sensitive but as far as the lawsuit settlement is concerned there is a time period in which to spend the money but he believed there were a number of years left on this time period. Monte Ward said the real time issue is there is approximately \$9 million on the table for the current round of acquisitions and if this issue was settled, it would bump up the amount available to spend. But he believed everything could be settled within the next 30 days. He recommended changing the proposed recommendation to:

Direct staff to develop an agreement consistent to the conditions of the M2 Freeway Mitigation Program and return to the EOC for approval.

A motion was made by Chair Patricia Bates, seconded by James Kelly, and approved unanimously to accept the changes to the recommendation. Vice-Chair Melanie Schlotterbeck abstained from voting due to a potential conflict of interest.

4. Restoration Properties

Lesley Hill gave a status update on the progress of the Restoration Properties Review.

Adam Probolsky suggested developing a better way to link the "Property Number" on the list of Restoration Projects to the "Property Group" in the key on the Restoration Projects map. Lesley Hill said the "Property Groups" shown on the map were the 2010 projects. Once the map is updated, the 2011 projects will be grouped and better identified.

Nancy Jimeno asked if the property tours would be conducted in the order listed on the Restoration Projects list. Lesley Hill said no, there would be an agenda given to the EOC. Marissa Espino said the agenda would be sent out today but gave the

committee members a quick review of the proposed tours which will take place over two days.

Melanie Schlotterbeck said it sounded like the properties had not been grouped into Group 1 and Group 2 yet. Lesley Hill said the evaluation committee has a fairly good idea of what the projects are like but until they actually see the property and get a feel for it, they are hesitant about making a final decision.

Melanie Schlotterbeck asked if all the properties being toured are protected – did they have a conservation easement, or a deed restriction in some way. Lesley Hill said this information was part of the criteria requested in the applications. Dan Phu said the property owner has one year to get the easement if there is an issue.

5. 2010 Funded Restoration Projects Presentations

A. Big Bend (City of Laguna Beach): Derek Ostensen of the Laguna Canyon Foundation gave a brief presentation of the progress of the Big Bend restoration project. The slide show presentation included pictures of the property and examples of the restored areas.

James Kelly asked, since the Big Bend project was a wildlife corridor, how would the animals cross the road bordering the property. Would there be some type of bridge or undercrossing provided? Derek Ostensen said ideally there would be a bridge but the cost for this is prohibitive. The road bordering the property is a lightly used two lane road and the animals would have to cross it.

B. City Parcel (City of San Juan Capistrano): Derek Ostensen, Environmental Consultant to the City of San Juan Capistrano, gave a brief presentation of the progress of the City Parcel Restoration Project. The slide show presentation included pictures of the property and examples of the restored areas.

Adam Probolsky said the issue of dumping was brought up in this presentation and he would like to know if this problem was becoming an epidemic and is it occurring everywhere. Derek Ostensen said any open space area is going to have dumping issues associated with it. The only way to control it is through patrolling.

C. Irvine Ranch Conservancy (County of Orange): Michael O'Connell of the Irvine Ranch Conservancy gave a brief presentation of the progress of the Irvine Ranch Conservancy restoration project. The slide show presentation included pictures of the property and examples of the restored areas.

Chair Patricia Bates thanked Derek Ostensen and Michael O'Connell for their presentations and suggested these presentations be made to the OCTA Board and other government associations. Lesley Hill said there will be more presentations like these made at the next EOC meeting.

6. Public Comments

There were no public comments.

7. Committee Member Reports

Monte Ward discussed a community inquiry regarding the Ferber Ranch property. He said staff provided a comprehensive response because they are anticipating some confusion and concerns on the approach being taken on the Ferber property. The Ferber property will remain closed off with no access until the cleanup has been completed and also until they have a clear idea of the conservation plan for the property. They encouraged the community to comment on the draft conservation plan and their issues regarding public access. The goal is to offer public access to the property once there is a clear idea where it will be appropriate and not conflict with the objectives of preserving the property.

Nancy Jimeno said she is always interested in what the public had to say and has encouraged people to come forward and express their concerns. She expected there would be people here to speak because of the letter sent out. Monte Ward said the letter also states OCTA staff is available to meet with the community to discuss the property status.

Chair Patricia Bates said she believed the EOC and OCTA has set a model for public involvement in the way land has been acquired. When land is being restored or acquired, there is a public access component.

Ellen Burton encouraged the EOC members to share contact information from any groups or stakeholders that had an interest in the environmental program so staff can add them to the OCTA database.

8. Next Meeting – December 7, 2011

The next meeting of the EOC will be December 7 in the OCTA offices.

9. Adjournment

The meeting adjourned at 11:10 a.m.