

Measure M Environmental Oversight Committee

September 7, 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
David Mayer, CA Department of Fish and Game
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
Dave Means, California Wildlife Conservation Board
Adam Probolsky, Probolsky Research
Sylvia Vega, Caltrans

Orange County Transportation Authority Staff Present:

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

Guests

Carl Reinhart, Takahashi Property Representative

1. Welcome

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

2. Approval of July 6, 2011 Minutes

Chair Patricia Bates asked if there were any additions or corrections to the Environmental Oversight Committee (EOC) meeting minutes. James Kelly said he had some word choice corrections:

- Page 2, last paragraph, first sentence: “James Kelly said he ~~is still having problems understanding~~ **has questions and concerns regarding** the appraisal methodology and the appraisal criteria.”
- Page 2, last paragraph, second to the last sentence: “He was not familiar with the history of **the acquisition of properties in connection with programs**”

~~**funded, in part, by federal highway funds.** this and how it is tied into the Federal funding”.~~

- Page 2, last paragraph, last sentence: ~~“If this has been passed by the legal process and it is known precisely that if a negotiated agreement is not entered to purchase at fair market value or ‘highest and best use’, then it might cost a greater deal of money than might otherwise be spent. **Is our acquisition program, and the methodology that we follow, something that we have sought the advice and opinion of legal counsel in order to comply with appropriate procurement practices for these types of funds.**”~~

A motion was made by James Kelly, seconded by Melanie Schlotterbeck, and passed unanimously to approve the July 6, 2011 EOC meeting minutes as corrected.

3. Section 6 Planning Assistance Grants

Marissa Espino announced OCTA was recently awarded \$732,000 from the U.S. Fish and Wildlife Services to help develop the Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP). She thanked Jonathan Snyder and David Mayer for their efforts in getting the funds awarded

Melanie Schlotterbeck asked if this money would go toward the NCCP/HCP planning to offset those cost. Jonathan Snyder said that is correct, it was a planning assistance grant.

Monte Ward said it was really a good addition to the funding package to help offset the cost and put more money into acquisition and restoration and it is also symbolic as a partnership gesture between OCTA and the wildlife agencies to complete the NCCP/HCP process.

Dan Phu said the money will be used to help with the conservation planning related effort and any other components that are tangible, as an example GIS mapping.

4. Acquisition Properties

A. Appraisal Status (Aliso Canyon, Irvine-Mesa, and Shell-Aera)

Dan Phu gave an update on the appraisal process for the Aliso Canyon, Irvine-Mesa, and Shell-Aera properties. He said the Shell-Aera property is lagging behind the other two properties in the appraisal process.

Chair Patricia Bates asked if the entitlement has changed on the Shell-Aera property during the time OCTA has been looking at it. Monte Ward said no, there have been ongoing discussions regarding entitlements for the entire property but this property has been moved around to different jurisdictions; currently they are in discussions with the City of Brea.

- B. Dan Silver asked if the other properties in Groups 1 and/or 2 are still in play. Dan Phu said all the properties with the exception of Sienna Summit are still moving

forward. The Sienna Summit property did pull out of the process and OCTA sent a letter thanking them for their efforts and invited them to come back into the process at any time in the future.

C. Interim Land Managers Update:

Dan Phu and Monte Ward gave a status update on where OCTA was in obtaining land managers for the acquired four properties.

Chair Patricia Bates asked why Ferber Ranch was a more complex property to deal with. Monte Ward said Ferber Ranch has a great deal of neighbors, there are several access points, it is adjacent to rural settled areas, and also it is nearby areas used for recreation purposes. It is also not adjacent to a state park so it makes it difficult for O.C. Parks to manage. He believed there would be some additional costs involved. Chair Bates asked if the extra cost would be enforcement. Monte Ward said it would involve enforcement issues, patrolling, and signage for the existing trail system. It will take a little longer to work out.

Dan Silver asked if there was an update on the Hafen property. Dan Phu said staff is still working through issues with Mr. Hafen's representatives. Monte Ward said all the pieces were together to close, it is just paperwork now.

D. Action Recommendation: Endorse staff's recommendation to identify future funding opportunities for the Mitigation Program concurrent with completion of a Natural Community Conservation Plan/Habitat Conservation Plan.

Monte Ward gave an overview and Dan Phu gave background on the recommended action. The original M2 revenue forecast for the Environmental Mitigation Program of \$486 million has been reduced to \$304 million due to the downturn in the economy. This \$304 million has also been reduced by \$98 million (\$55 million plus borrowing cost) for bonding leaving the amount of \$200 million remaining for the life of the program.

Dan Silver asked if this amount was for the Mitigation Program and the Water Quality Program. Dan Phu said it was just for the Mitigation Program only; the Water Quality Program has its own funding.

Dan Silver asked if the \$18 million amount which will possibly become available in fiscal year 2014/15 will make up tranche three of the Mitigation Program. Monte Ward said yes, when looking at the revenue stream for the Mitigation Program, this would be the amount available at that time for the Program. There are other alternatives – the entire Freeway Program could be borrowed against to advance more money. This would require a policy decision by the OCTA Board. Dan Silver asked if there would be another \$18 million available in 2016/17. Monte Ward said there would be another tranche of money available further out but the details have not been looked at. Dan Silver said on the other hand there is still

another \$200 million to spend. Monte Ward said the Program has \$200 million to spend on a pay-as-you-go basis. The minute financing becomes involved, the equation changes. If the EOC decides to spend the Program out today using bonding they would have approximately \$90 million – by borrowing and front loading the Program – and then the Program is over. This approach has been investigated with the rationale being the cost of money is fairly low today and property is cheaper. It would involve an analysis of the risks to the entire M2 Program. Dan Silver asked how much money would be gained by a pay-as-you-go program. Monte Ward said it would be approximately \$2 to \$3 million a year for the next few years.

Nancy Jimeno asked if the amount would increase if the economy recovered. Monte Ward said, yes, the number would change. If all the money had been spent up front and the sales tax went up by the end of M2 in 2041, the debt would be paid off and additional money would be available. However, if it goes the other way, they would have to find a way to reconcile the numbers. Fortunately, the language in the Ordinance says a “minimum of” so there would not be the reconciliation problem as if it had been a hard number. At the end, you have to reconcile against the plan and, in this case, it is a percentage.

Dan Silver asked if part of the remaining \$9 million will go to the endowment. Dan Phu said a portion of the \$9 million will go to the endowment, but the amount has not been determined yet. Monte Ward said the plan and implementing agreements are not in place to nail down the commitment so they want to remain cautious until they are in place.

Melanie Schlotterbeck asked if the Section 6 grant could be used to offset some of the acquisition and restoration expenditures. Monte Ward said the \$732,000 would go into the pot and be used where needed.

Greg Winterbottom asked how much has been spent on restoration so far. Dan Phu said \$5.462 million has been spent so far and another \$5 million will go out in the next call for projects.

Dan Silver said currently there is a certain universe of properties and he questioned if there are more important properties that may come forward and change the thinking. He suggested Melanie Schlotterbeck could give the EOC some information about what is on the Green Vision Map. This might influence his decision about spending immediately or saving money for the long haul.

Melanie Schlotterbeck said there are other large properties (400 acres or more) which have not been included in the process. As far as “the immediate threat of development,” the big properties are on the current list.

Monte Ward said when this round of acquisitions is completed and we get further along in the conservation plan, there may be some strategic issues in terms of which properties are important or may become important. David Mayer said he believes this is accurate because as they become more involved in the conservation analysis and look at specific species, there will be a need to identify findings and how the findings are made which will require a look back at the acquisition, management, and possibly restoration. These things can't be answered until the EOC gets further in the planning.

Melanie Schlotterbeck said she agreed that the NCCP/HCP needed to be in place in order to better evaluate where they are, maybe do the new call for properties in 2013 in preparation for the 2014/15 allocation, and, in the meantime, evaluate the recommendation of pulling out all the money now. The EOC will have more information once the conservation plan is developed and once we know what the full suite of properties that have been purchased include.

Melanie Schlotterbeck asked when the NCCP will be done. Dan Phu said it should be in early 2013 depending on the comments received during the review period.

Chair Patricia Bates said the EOC needs to know how many acres are being acquired in mitigation of the freeways to use as a denominator. Monte Ward said she was correct. There are different levels of tolerance for the pace of investment and types of investments being made at the EOC and at the OCTA Board level. Monte Ward said he also believed restoration will become an important component of this as the acquisitions start to take shape and as the conservation plan is produced and it is determined what needs to be done to make the most effective use of what has been acquired.

Nancy Jimeno said she tended to agree with spending the money now while things are less expensive. She believed the economy will bounce back soon. She advocated purchasing the best pieces of land now. Then, once the NCCP is complete, decide where to go from there.

Melanie Schlotterbeck said she would advocate looking at the first draft of the NCCP/HCP to get an idea of what the big picture is. She would like to see where other wildlife corridors are and where other threatened habitats are. She would also advocate buying now, but would like to make sure they are not focused on one geography. She felt the fact that the OCTA Board advanced money to start the program before M2 started collecting money was a sign they understood the benefits of the program.

Dan Silver said he agreed with Melanie Schlotterbeck but his question was the OCTA Board has made no decision on where to go with tranche three in terms of amount and timing, does the EOC want to make a recommendation? Also, why

the 2014/15 timeline for the proposed \$18 million? Monte Ward said it is a different policy decision. If the 2014/15 time table is followed for \$18 million it is based on the revenue stream for the Freeway Program. It doesn't intrude upon borrowing for the rest of the program. If this is advanced more aggressively, a policy decision is being made to potentially displace some of the borrowing capacity for the implementation of the program.

James Kelly asked if advancing the Freeway Program would have a greater direct benefit to the economy. Monte Ward said the advancing of the Freeway Program is a function of how fast can projects be ready, what the timetable for projects is, and what's in the pipeline. This is a component that has not been looked at and should be before making a recommendation.

Chair Patricia Bates said from listening to the discussion she believed the EOC needs further information before making a recommendation. Monte Ward suggested this item be brought back to the EOC closer to the end of the year with some analysis of the issues raised from the questions asked.

James Kelly asked what was happening with the NCCP/HCP. Dan Phu said OCTA staff knows they are responsible for the long term maintenance/management for the four properties that OCTA has already acquired, the question is what the maintenance/management cost would be. The NCCP/HCP will lay out the long term maintenance/management scheme.

Dan Phu said in the early part of 2012 they will be doing baseline surveys of the four properties acquired so they will know about the habitat and species to align it with the NCCP/HCP. Melanie Schlotterbeck asked who will do the surveys. Dan Phu said it was more ideal to have a singular party do the assessment so there is consistency throughout. OCTA will be issuing a request for proposal to bring on a consultant team to do the baseline survey so it will be uniform across the board for the first four properties.

Chair Patricia Bates suggested an item be put on the Executive Committee Agenda bringing them up to date with the recently signed agreement between OCTA and the Army Corps of Engineers to look at a process to address the water quality permitting issues and the relationship between the restoration projects the Army Corps.

A decision was made to table the action recommendation until later in the year when more information can be obtained.

5. Restoration Properties

A. Second Call for Restoration Projects Update

Marissa Espino reported on the second call for Restoration Projects which ended August 30, 2011. She reported they received 21 new submittals.

Melanie Schlotterbeck if there will be tours to the properties once they are evaluated. Dan Phu yes.

A committee member asked if there were modifications to projects found on the previous restoration list. Marissa Espino said there were approximately three to four project modifications.

Dan Silver asked if any properties who received money previously had applied again. Dan Phu said yes, one of those was the Irvine Ranch who came in with phase two to their previous project.

6. Public Comments

Carl Reinhart, Takahashi property representative and resident of Silverado Canyon, spoke at the meeting. He said as a representative of Group 1 and 2 property owners he wanted to say they are unclear as to where things are headed in terms of their properties. They are now being approached by developers. Most of the property owners wish to sell to OCTA but more than anything else they want to know where they are at in the long term process. If there was a way to let the property owners know where they are on the list, it would save these people from making deals with the developers. He would like OCTA to either investigate buying options or do some deals with owners to carry the financing. This would satisfy some of the owners and give OCTA the ability to leverage today's values with the long term. He encouraged OCTA to consider creative financing.

Dan Silver asked which two properties he represented. Carl Reinhart said he represented the Takahashi Property in Group 1 and the property in Group 2 described as 78.8 acres on Ladd Canyon.

Dan Silver believed that the creative financing suggested by Carl Reinhart is something that should be put in the mix especially if any of the money is left over from \$9 million set aside for land managers. He thanked Carl Reinhart for his suggestion.

Chair Patricia Bates thanked Carl Reinhart for coming and speaking.

7. Committee Member Reports

There were no Committee Member Reports

8. Next Meeting – October 5, 2011

The next meeting of the EOC will be October 5 at the OCTA offices

9. Adjournment

The meeting was adjourned at 11:15 a.m.