

Environmental Oversight Committee Meeting Minutes

December 17, 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
Nancy Jimeno, California State University, Fullerton
Adam Probolsky, Probolsky Research
Dan Silver, Endangered Habitats League
Jonathan Snyder, US Fish and Wildlife Services
Debbie Townsend, California Wildlife Conservation Board **(on conference call)**
Sylvia Vega, Caltrans
Erinn Wilson, CA Department of Fish and Game

Committee Members Absent:

Veronica Chan, US Army Corps of Engineers

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 M Consultant

Members of the Public

Ed Amador, Canyon Lands Conservation Fund
Jack D'angelo, Trabuco Canyon property owner
Steve Ray, Executive Director of the Banning Ranch Conservancy
Claire Schlotterbeck, Green Vision Committee

1. Welcome

Chair Patricia Bates opened the meeting at 12:05 p.m. and welcomed everyone. She asked committee member Director Cathy Green to lead the pledge of allegiance.

2. Minutes

Chair Bates asked if there were any additions or corrections to the November 18, 2009 EOC Meeting Minutes. There were no additions or corrections requested. A motion was made by Vice-Chair Melanie Schlotterbeck and seconded by Cathy Green to approve the November 18, 2009 meeting minutes as presented. The motion passed unanimously.

3. Status Report on Evaluations

Monte Ward said the parties doing the evaluations are signators to the HCP/NCCP and include OCTA, Department of Fish and Game, US Fish and Wildlife Services, and Caltrans. The evaluations report will be based on information given to the group last month by CBI as well as additional information provided by the project submittals or the result of a request for additional information.

a. Priority Conservation Areas / b. Initial Evaluations

Dan Phu gave a status report on the Renewed Measure M Environmental Mitigation Program and the progress of the evaluations of the properties and projects submitted. Dan identified the 11 Core Habitat Areas and provided a list of 26 submittal properties. It is anticipated the identified 26 properties will increase once the Green Vision parcels/properties within the Priority Conservation Areas (PCA) have gone through the evaluation process. At this point, they have only looked at the properties from a biological standpoint.

c. Green Vision Properties

Vice-Chair Schlotterbeck said the Environmental Coalition supporting Measure M submitted 11 properties within the Green Vision Map they felt had been missed and needed to be evaluated as part of the process. The Coalition gave the name of the property, acreage, assessor parcel number(s), owner or representative, and address for each property. They requested OCTA provide outreach to the property owners regarding the mitigation program. The Coalition also suggested OCTA consider partnering with a Conservation Transaction Specialist and utilize their skills in moving the acquisition process forward.

Ward said the properties identified on the Green Vision Map inventory are within the priority conservation areas, the information on these properties is sufficient, and the evaluation process can be started. There will be a need to do further outreach and gather additional information to clarify numbers. Ward said he does not think this will have a significant impact on the project schedule.

Chair Bates asked if any of the first properties submitted were rejected. Ward said no properties have been rejected. He said there are, and will continue to be, distinctions made on whether a property is in a core or linkage area.

Adam Probolsky said he was curious why these properties were not submitted previously. Vice-Chair Schlotterbeck said at least one property owner was using information given out that if they were on the Green Vision Map they did not need to do a submittal and were not outreached to directly. Probolsky asked if it would be more appropriate to include these properties in the second tranche or make it clear anyone can submit at any time. Vice-Chair Schlotterbeck said not all of the landowners on the list live in Orange County, even if it was published far and wide they may not know the program exists.

Chair Bates said the critical point is there may be a number of property owners who believed they did not need to come forward because they were on the Green Vision Map. Ward said there were approximately 400 parcels on the Green Vision Map within the core and linkage areas. When these parcels were further restricted down to PCAs, the number was still unwieldy. The clearest resolution would be to find a way for the people who put the Green Vision Map together to try and focus the number of parcels down to a reasonable number. The result was reasonable in terms of the project timetable; it is not going to significantly alter it.

Probolsky said his point is he wouldn't want anyone to get the idea the process is in any way political. We need to be cautious about this. Chair Bates said, in the final analysis, science will be the answer and that coupled with the fact the property owners assumed they were in the process because they were on the Green Vision Map. Probolsky said it seems we are proactively pursuing sellers. Chair Bates said she did not agree, if someone has property with great conservation quality and OCTA makes an offer, the people can say they are not interested.

Probolsky said he is not saying it is bad, just very different from how we have been doing it. OCTA has asked people to come to us, now we are asking staff to solicit property owners. Erinn Wilson said the crux of the matter is there are people who thought they were part of the process; they were informed they did not need to submit an application. Phu said not all the original 96 properties submitted were submitted by the owners. OCTA will still need to contact the property owners of these properties to find out their willingness to sell. Chair Bates said there is no advantage being given to properties being submitted – it is just honoring a commitment when the plan began. Phu said this is correct. Ward said the program started with the Green Vision Map as a baseline.

Rose Coffin asked if OCTA is soliciting the owners of the property or just assessing the property along with everything else. Ward said his interpretation of the letter from the Environmental Coalition is OCTA should inform the property owners their properties are being evaluated. Additional information may also be requested at that time if needed. Vice-Chair Schlotterbeck said the Coalition's goal is not to stop the process just to get the properties on the list as soon as possible and then focus on the outreach. The Coalition did this in just three days and did not have enough time to contact the landowners, but they know most of them. They would like the more official outreach to come from OCTA.

Dan Silver said there are a number of competing fairness type questions about treating everyone the same. People worked on getting their paperwork in before the deadline and now there is another deadline. The competing issue is some people thought they were already included in the process and did not need to submit an application. Another fairness issue is the people who have submitted need a yes/no answer quickly because they have been hanging around and they

need to know what to do with their property – timing is critical. The important question is how to be fair to everybody. We should make every effort to be able to say there has been no special treatment. Silver said having a letter to some property owners, but not others asking if they are a willing seller is a special treatment. He would like to propose to open up to the Green Vision Properties, but also anyone else who would like to apply. He does not think there will be others, but as a technical matter others need to be able to apply also. The Green Vision Map properties need to be treated like properties presented by non-property owner groups. Silver suggested OCTA write a letter saying your property has been submitted by the Environmental Coalition and will be considered for the Freeway Mitigation Program and we invite them to submit additional information that would help evaluate their property if they are interested. He would urge the Environmental Coalition to also outreach to these people. Once everyone is in the mix and evaluated, OCTA should write to everyone asking if they are a willing seller. His overall concern is this all be done quickly.

Cathy Green said reopening the applications process for the Green Vision properties and everyone else is part of the fairness she is looking at. She was always under the assumption the Green Vision properties were included and did not see it as a fairness issue. She would like to make sure the first letter goes out and then immediately follow up within the next two weeks with a second letter asking “are you interested in selling.” Silver said this was a great idea.

Probolsky said he believed it is critical that when a property is being evaluated the owners need to be notified.

Ward summed up the discussion as follows: If the Green Vision Map properties are allowed into the program they need to be notified of this. This needs to be followed with a letter to all properties under consideration reiterating they are in this process and part of the evaluation it will need to be determined their level of interest in selling. This should be done in short order.

Sylvia Vega expressed concern about the letters going out during the holidays. People are usually very busy during this time and may not respond in a timely matter. Ward said if OCTA does not hear from everyone, staff will make calls to the property owners. He said people should have three to four weeks to respond, but at the same time, the evaluation process will continue.

d. Restoration Properties/Projects

Ward said as the evaluation process moves forward the evaluation committee is finding some acquisition projects that are really restoration projects. Some of the restoration projects information is not clear and the sub-committee is going back and trying to get more information. There are some differences in the initial evaluation criteria on how acquisition versus restoration is looked at.

Green asked if a restoration project would be funded in the second tranche. Ward said no, all projects will come forward as part of the same recommendation.

Probolsky asked how many restoration projects were submitted as restoration. Phu said he does not have the figures available but can send them to him. To the best of his recollection there was only a small amount of restoration projects submitted.

Probolsky asked how the evaluation committee arrived at the realization some projects were really for restoration and not acquisition. Ward said it was found when the submittals were examined and in some cases the committee made phone calls or interviewed the submitter.

Chair Bates said on the chart there is a designation "Project has been removed for consideration by the project sponsor." She asked, when outreach was conducted for more information, did the sponsor request removal from the list. Ward said yes, in this case the project was going to be protected through some other means. Phu said in the case of the five projects removed by project sponsor, OCTA did not initialize the contact. The sponsor came forward and asked to be removed.

4. Look Ahead Schedule

Ward and Phu presented the Renewed Measure M Environmental Mitigation Program Look Ahead Schedule. Monte said the schedule reflects the timing of bringing forward a recommendation out of the evaluation process. Phu said the note put in the schedule regarding possible adjustments to the schedule because of the added Green Vision properties was put in before the number of properties was known. The actual 11 Green Vision properties submitted should make no difference in the schedule. The evaluation committee now needs to refine the schedule and give more specific scheduling information. Ward said in February 2010 the EOC should receive a list of properties to endorse for the program. The Committee discussed what needed to be done in the next two months to be able to present a list of properties to be endorsed.

Erinn Wilson asked if the timing of making a recommendation to the T2020 Committee would be pushed back. Monte said no, if the EOC can make an endorsement of the properties in February, there will still be time to go to the T2020 Committee for their approval at the end of February.

Silver asked when the January EOC would take place and what information will the EOC be asked to consider. Marissa Espino said the EOC meeting will be January 21. Monte said in January the EOC will get a progress status report on where the evaluations are. Chair Bates said the EOC needs to understand there may be more than one meeting in January.

5. Public Comments *(Public comments on all items take place at this time.)*

Jack D'angelo, property owner in Trabuco Canyon, thanked the EOC for all the hard work they have been doing. The property owners have been in the process for over two years. They have submitted information to the EOC upon request and they will continue to work with the EOC. It would be very useful to them to have some information back from the EOC as to the interest in some of the properties, particularly the "short list" of properties.

The schedule published, while very helpful, is a schedule largely focused on the process of evaluating property and also on the NCCP/HCP process. As property owners, they would like to see the schedule expanded to identify dates where decisions would be made. Also, they would like to see a closing schedule.

Phu said OCTA can get the schedule down to a shorter range of dates and more specific dates. Chair Bates said OCTA will commit to getting more specifics out to the property owners.

Ward said in the letter from the Environmental Coalition, they recommended bringing in additional expertise into the process of acquisition of properties. If it involves a procurement of services, it could have an impact on the schedule timing. There may be other ways to do this but it needs to be discussed further. In addition when the recommendation is made for certain properties to be taken forward, the acquisition schedule can become more specific. Ward said staff is schedule sensitive because of the investment aspect of the project.

Chair Bates said the EOC can discuss in-house versus contracted help at the first EOC meeting in January 2010.

Claire Schlotterbeck, of the Environmental Coalition Supporting Measure M, thanked the EOC for the discussion. She made the following observation: They know this is a cutting edge program and there are going to be glitches. They are committed to resolving these glitches as quickly as they can and coming to terms with the issues. They would like to remind everyone that 32 environmental groups went out on a limb, trusted the process, and endorsed the passage of M2, but for the strength of the Coalition today's discussion may not have taken place. They are appreciative of the efforts and desire to continue to work through issues as they unfold.

Ed Amador, Canyon Land Conservation Fund, announced the US Fish and Wildlife Service (USFWS) formally proposed nine weeks ago proposed critical habitat for federally endangered species on one of the parcels found on Attachment B of the Dec. 17 Environmental Coalition letter. Along with the USFWS, the Trust for Public Land, and the Conservation Trust have groups on the ground in Silverado, Modjeska, and Trabuco Canyons because there are private parcels that have become an important chain for the free movement of wildlife and the recovery of endangered species and plants.

Amador presented a map that was the work of approximately 200 biologists and land managers who put together about sixty potential wildlife corridors in Southern California. Specifically, the Pacific section of the wildlife corridors run through Holtz Ranch, First Cornerstone, and the Baker Square holding in Silverado Canyon, which are on the Green Vision property list submitted by the Environmental Coalition.

Amador said his group is glad these parcels are being taken seriously. He said M2 funding along with Orange County's fair share of private, federal and state money can be put together in this important effort to re-establish the Santa Ana Mountains as part of the overall North American mega link for wildlife corridors.

Steve Ray, Executive Director of the Banning Ranch Conservancy, said he echoed the message of previous speakers – the sooner property owners find out if their property is being considered the better. The timing on the survey is very bad for his project because the property is under the threat of development. The property owner has a proposed project before the Newport Beach City Council with a draft EIR coming out at the end of January 2010. The owners are therefore hesitant to be forthcoming on their willingness to sell until they get a value established. However, the property owners and the Newport Beach City Council have made public comments indicating their willingness to negotiate.

Ray said the EOC is really considering the first and second tranche of the process. Banning Ranch feels they are in a position for the second tranche effort but they are looking for a commitment that Banning Ranch is under consideration. They are confident because of the high biological value of Banning Ranch and the fact they provide a critical linkage between all other Orange Coast properties.

Ray cautioned the committee on how the question of willingness to sell is asked of other properties. Knowing a definite "yes" or "no" answer is wanted; ask the question in a way that doesn't lend itself to gray areas.

Ray asked if OCTA is looking at a full commitment to place a property in the acquisition process or a timed process. He said is unclear as to how exactly the acquisition will be determined. He asked if the EOC will set priorities and then go after them recognizing there may be a delay in the process or is the EOC looking for properties that can be purchased right away and everything else tossed in the basket for later.

Ward said the intention is for the EOC to make recommendations to the T2020 Committee and then that Committee to the OCTA Board. The recommendations would include approval of a group of properties considered for acquisition and/or restoration and approval to begin the process of due diligence and negotiation with the property owner. The list will be larger than what can be afforded. The properties that get purchased will be properties with a biological high priority, received credit and assurances from the wildlife agencies, and a successful negotiation on the price and conditions of sale. Ward said they would initially not bring forward just the list of

properties they intend to purchase because this would put OCTA at a disadvantage in terms of negotiations.

Probolsky asked if any properties have been eliminated by the Working Group. Ward said no, the elimination will take place later in the process. Probolsky asked if this would be made public. Monte said yes.

6. Committee Member Reports

Committee member Nancy Jimeno said she had visited several properties under consideration and it really gave her a different perspective. She felt it would be important for EOC members to look at the parcels. Ward said they expect to do some property tours. Phu said staff will schedule several trips to look at properties once more information is received.

Chair Bates asked everyone to give a big “thank you” to Committee member Cathy Green. This is her last meeting; she is rotating off the OCTA Board. Chair Bates wished her the best.

7. Next Meeting

The next meeting of the Environmental Oversight Committee will be in January 2010. The exact meeting date has yet to be determined. Staff will check with the member’s schedules and notify the Committee members when an agreement on the date has been reached.

8. Adjournment

The meeting adjourned at 2:35 p.m.