

Environmental Oversight Committee Meeting Minutes

November 18, 2009

Committee Members Present:

Vice-Chair Melanie Schlotterbeck, Measure M Support Groups
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
Sylvia Vega, Caltrans
Erinn Wilson, CA Department of Fish and Game

Committee Members Absent:

Chair Patricia Bates, OCTA Board of Directors
Veronica Chan, US Army Corps of Engineers
Rose Coffin, Taxpayers Oversight Committee

Orange County Transportation Authority Staff Present:

Marissa Espino, Senior Community Relations Specialist
Janice Kadlec, Public Reporter
Dan Phu, Project Development Section Manager
James Staudinger, Right-Of-Way Section Manager
Monte Ward, Measure M Consultant

Guests:

Patricia Gordon-Reedy, Conservation Biology Institute

Members of the Public

Steve Ray, Executive Director of the Banning Ranch Conservancy
Ed Sauls, The Sauls Company

1. Welcome

In the absence of Chair Patricia Bates, Vice-Chair Melanie Schlotterbeck opened the meeting at 11:30 a.m. and welcomed everyone. She asked committee member Erinn Wilson to lead the pledge of allegiance.

2. Minutes

Vice-Chair Melanie Schlotterbeck asked if there were any additions or corrections to the September 2, 2009 EOC Meeting Minutes. There were no additions or corrections requested. A motion was made by committee member Cathy Green and seconded by

Vice-Chair Melanie Schlotterbeck to approve the September 2, 2009 meeting minutes as presented. The motion passed unanimously.

3. Conservation Assessment Presentation

Patricia Gordon-Reedy gave a presentation on the Conservation Assessment of Orange County for the Renewed Measure M Environmental Mitigation Program. Patricia said the presentation consisted of three parts:

1. Review of information presented at the July 2009 EOC meeting with updates to the data layers,
2. Introduction of a new conservation assessment tool, and
3. Bringing everything together to show how it works in helping to prioritize land for conservation.

Committee member Adam Probolsky asked how CBI chose the Chino Hills core area as an example. Patricia said there was no rhyme or reason for the selection of Chino Hills, CBI wanted a large area and just started in North County and worked its way down the map. Adam asked if the Positional Priority Levels extend outside the County line. Patricia said not as drawn on the map, but the entire core area extends beyond the County line and some of the parcels do also. Adam said there is no restriction to going outside the County but there may be an expectation to only spend money within the County.

Adam said the Santa Ana Mountains seem to be the highest priority area and yet there are pretty limited applications from this area. Perhaps this means the Committee should be more proactive in pursuing this area. Staff has done a great job of reaching out to the world but if this area is such a priority maybe in the next round of funding a little more should be done toward looking for properties here.

Adam said in slide 20, under the subject of Edge Effects, the subject of *increased fire frequency* is brought up and slide 21 under Positional Priority Levels *edge, not adjacent* is listed under Low Priority. He considers both of these areas good areas for restoration because restoration helps prevent fire. Patricia said she showed a number of intersects in the presentation and there is not much that can be done for some of these intersects, fire may be one of them because it can be so far reaching. Adam said the reports focus mostly on acquisition and his point is these are two cases where restoration may be a better remedy because restoration prevents fire.

Committee member Dan Silver said CBI has done the Positional Priority Levels analysis A, B, and C for Chino Hills, but has it been done for the other cores and linkages. Patricia said it is almost completed and should be completed next week. Dan asked when CBI would be looking at the parcels which have come forward as potential early acquisition. Monte Ward said staff would outline the next steps and maps will be made available online. Staff will complete the cleanup of the inventory of submitted properties, properties that made a presentation but were not submitted,

and properties on the Green Vision map but were not submitted. As CBI completes their process, the final maps can be submitted.

Committee member Dan Silver asked at what point will outreach be done to properties in the identified areas that have not come forward and how does it fit into the timeline. Monte said it can certainly be done but there are no plans to reopen the application process for this round of funding. The properties under consideration for the first round of funding are the properties he identified previously. There may be other properties that have not been submitted, these properties can apply for the next round of funding.

Committee member Dan Silver said he appreciates the work done by the consultants, but for him to understand it, he would need to know what the ecological functions and values of a particular parcel were. This is not always encompassed by modeling. As the process moves forward he will be interested in a more layman's approach to what a particular parcel would do for us in terms of ecological functions and values and in terms of building up the County reserve system. Monte said modeling just gives the framework for looking at things at a fairly high level. It helps to narrow down the County to focus areas. It is a tool to use when evaluating individual properties and further explore differences between them. Modeling is a tool and does not substitute for the evaluation process performed by the resource agencies, consultants and staff.

Vice-Chair Melanie Schlotterbeck said this assessment was focused on the principles of conservation biology and the next step is to make sure high value conservation properties actually align with the impacts to habitat. Monte said this is correct, the matrix used in the evaluation identifies the most important factor is alignment with the M2 freeway program.

Committee member Sylvia Vega said she will always keep in mind that mitigation of impacts caused by freeways is very important and it will enable the Regional Water Quality Control Boards (both San Diego and Santa Ana) to agree with the projects.

Vice-Chair Melanie Schlotterbeck announced the PowerPoint report given by CBI is available at www.octa.net/EOC.

Public Comments:

Ed Sauls, The Sauls Company, said he was happy the modeling effort will be used as a tool in the EOC decision process. He made the following observations:

- When the wildlife agencies consider permits, they should look for the best available scientific information. This is really good information, but it is regional in scale and more current site specific information exists about what kind of endangered species are on potential mitigation lands and was not considered in the presented analysis. If this information is filtered in, it might have some effect on decision making process.

- In looking at conservation areas, if analyzed on a parcel by parcel basis, it does not take into consideration assembling multiple parcels to accomplish some of the conservation objectives.
- The report does not analyze the threat of development.
- The report does not analyze factors such as willing seller and cost of land.

Ed Sauls thanked the committee and said he appreciates the effective modeling tool, but keep in mind it is just one tool in the process.

Steve Ray, Executive Director of Banning Ranch, congratulated CBI for putting the report together. He made the following comments:

- There seems to be a higher value placed on wild lands rather than urban wild land interface. He referenced the North Coastal properties being designated as a less than high priority status and given a medium priority.
- He asked what priority was given to the tracts of coastal urban space that have great value in terms of riparian habitat and are relevant to the highway projects. How are wild lands in the mountains given more priority than areas with more urban interface?
- He asked how the definition of “protected” and “unprotected” areas was assigned. Banning Ranch is described as a protected area on CBI’s map, yet there is a development proposal to do away with the existing open space. He requested we look into why it is protected on the map and correct it to show an unprotected status.

Monte Ward said as to the values of urban interface, it is a bias to look at things on a landscape level, in terms of the integrity and sustainability of areas that might be acquired. It is not a determinate factor; it simply speaks to the fact that certain areas of the County will be easier and more productive in terms of establishing and protecting a preserve. There are many other factors that will be looked at including the correlation with impacts of the freeway projects, the value of riparian land, and other things. With respect to looking at things on a landscape level, it is a bias, but it can be counter balanced by other factors.

Monte said the “protected” versus “unprotected” areas were looked at in terms of areas that had a protected status and are in some type of conservation protection. Whether they are designated in someone’s General Plan as eventually being protected is not the issue. The issue is whether they actually have a protected status.

4. Right of Way Process

James Staudinger, Right-of-Way Section Manager, outlined the Renewed Measure M Freeway Environmental Mitigation Program Right of Way Process. He said the process is designed to meet program needs, limit risk, and maximize resources. The ultimate goal is to purchase property in a logical and consistent manner.

Committee member Sylvia Vega asked for an example of what would happen if a property had environmental concerns. James said as part of the due diligence, OCTA will receive an Environmental Phase 1 assessment. If it indicates some concerns, OCTA will ask for a Phase 2 report. If it indicates there was something like an old dumpsite on the property that would take a long time to clear, OCTA may pass on the property for the first round of funding and concentrate on a parcel that would be less problematic in acquiring.

Committee member Dan Silver asked what the anticipated timing for the completion of transactions was. James said he would expect the normal process to take 30 to 45 days to agree to purchase and 60 to 90 days to acquire.

Committee member Adam Probolsky said there are certain provisions in Federal tax law relating to allowing a property owner tax breaks on property liens if it is done under eminent domain. He asked if there's been any discussion at the Board level on the prospect of offering this to property owners. Monte said there has been no specific discussion about this. The assumption has always been the program would be voluntary and eminent domain would have no part of it. Adam said he thought the discussion on this should happen either at the T2020 or the Board level. It is a something very easy to do and it would allow the property owner to show a serious concession in the property price because they would be getting serious tax concessions. James said this is called a "friendly condemnation" and from a practical point this would be a benefit to the property owner. Committee member Director Cathy Green said the Board has not discussed it for this program, but the Board has certainly discussed it for other programs.

Committee member Nancy Jimeno said the idea of the threat of development should definitely be considered. This, along with the reduced price of land due to the economy, is a point for moving quickly when acquiring property. Monte Ward said in the matrix for the mitigation program, there are a set of non-biological factors that are very much part of the evaluation process and potential for development is one of these factors.

Committee member Sylvia Vega said there are items which the Committee will need early in the process and one of them is the Property Analysis Record (PAR). In the Right-Of-Way outline, the PAR is listed #8 – it may be needed earlier. James said staff will make adjustments in the Right-Of-Way outline and the PAR may become the first step.

Committee member Debbie Townsend asked if OCTA will have independent appraisers. James said yes. OCTA has a current list of contracted appraisers. If a specialty appraiser is needed, the OCTA appraiser will work with the specialty appraiser. A long term goal is to have a list of specialty appraisers.

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

There were no further public comments.

6. Next Meeting

The next meeting of the Environmental Oversight Committee will be Thursday, December 17, 2009 from 1 to 5 p.m.

7. Committee Member Reports

There were no Committee member reports.

8. Adjournment

The meeting adjourned at 12:45 p.m.