

# Measure M2 Environmental Oversight Committee

**January 7, 2015  
Meeting Minutes**

## **Committee Members Present:**

Vice-Chair Melanie Schlotterbeck, Measure M Support Groups  
Charles Baker for Sylvia Vega, Caltrans  
Dr. David Chapel, Brandman University  
Veronica Li, US Army Corps of Engineers  
David Mayer, CA Department of Fish and Wildlife  
Derek McGregor, Public Member  
Dan Silver, Endangered Habitats League  
Jonathan Snyder, US Fish and Wildlife Service  
John Walsh, California Wildlife Conservation Board

## **Committee Member(s) Absent:**

Lori Donchak, OCTA Board of Directors  
Philip La Puma, Measure M2 Taxpayers Oversight Committee

## **Orange County Transportation Authority Staff Present:**

Marissa Espino, Senior Strategic Communications Specialist  
Lesley Hill, Planning Department Project Manager  
Janice Kadlec, Public Reporter  
Dan Phu, Project Development Section Manager  
Monte Ward, Measure M Consultant

## **Guests**

Carl Reinhart  
Paul Thier

### **1. Welcome**

Vice-Chair Melanie Schlotterbeck called the Environmental Oversight Committee (EOC) meeting to order at 10:00 a.m. She asked Jonathan Snyder to lead the Pledge of Allegiance. Vice-Chair Melanie Schlotterbeck also asked everyone around the table to introduce themselves.

### **2. Approval of the November 5, 2014 Minutes**

Vice-Chair Melanie Schlotterbeck asked if there were any additions or corrections to the November 5, 2014 EOC meeting minutes. A motion was made, seconded, and passed unanimously to approve the November 5, 2014 EOC meeting minutes as presented.

### **3. Ad-Hoc Working Group Meetings Status Update**

Dan Phu gave a brief background report on the status of the Environmental Mitigation Program. The Program has met all obligations for OCTA as far as a Conservation Plan is concerned for property acquisition, funding restoration projects, and setting up the property endowments. He said now a decision needed to be made on what to do with the projected future revenues of approximately \$150 million.

Monte Ward reported on the meetings held by the Ad-Hoc Group related to the guiding principles to discuss the potential use of the unallocated Environmental Mitigation Program funds. He introduced a matrix used by the members of the Ad-Hoc group to score all the possible uses for the funds. Monte Ward said each EOC member will be sent a matrix to complete. He also gave the EOC an outline of the long term funding strategy for the Freeway Mitigation Program. It was based on a timetable and set of actions, a tentative list of things that could be done, and the time they would be done.

Derek McGregor said he applauded the Ad-Hoc Group for the work they have done. He asked who was on the subcommittee. They are:

- Veronica Chan, US Army Corps of Engineers
- Lori Donchak, OCTA Board of Directors
- David Mayer CA Department of Fish and Wildlife
- Melanie Schlotterbeck, Measure M Support Groups
- Dan Silver, Endangered Habitats League
- Jonathan Snyder, US Fish and Wildlife Service
- Monte Ward, Measure M Consultant

Derek McGregor asked if the staff for the Ad-Hoc committee would be Dan Phu and Lesley Hill. Monte Ward said correct.

Derek McGregor asked if any more description was available for the project descriptions in the matrix. Monte Ward said this was just the level of detail they used. There was quite a lot of discussion to get to this level of detail in the descriptions.

Derek McGregor said he did not understand how the two handouts related to each other. Monte Ward said he was missing one piece of the information. The guiding principles were not included in the package. This was an oversight and they would be sent to the EOC members.

Dan Silver said they did not have much trouble as a group reaching a consensus on principles or good ways to spend money. The problem is do they have money to spend. We will in 15 or 20 years, but the initial funds will run out quickly. The good news is there is an endowment and the bad news is there is no money to spend on anything else. He believes the EOC should focus more on timing than the amount of money.

Dan Silver continued and said the Ad-Hoc group also looked at borrowing and were very discouraged with this. They can borrow but the capacity to borrow is very limited. Monte Ward said they can borrow but it would be less than \$10 million. They are constrained by the timing. During the time the endowments are being formed they are constrained to do it only once. Dan Silver said he would be in favor of borrowing \$10 million and this should be discussed more. The question is, is there any way to get the money in the next 10 or 15 years. The only way he can see that being possible is as time goes on they may need less money for the endowments. The endowments are very conservative and assumptions were made on management costs that were very high compared to other endowments. He suggested the agency take a look at the next 10 to 15 years of management and monitoring and see if some things might be put off to when they have more money.

Monte Ward said the framework for that discussion would be in the cash flow tables. He suggested the cash flow tables be added to the package sent to the EOC members and discussed at the next meeting.

Vice-Chair Melanie Schlotterbeck said they cannot talk about spending until they decide what the priorities are. She asked when would the OCTA Board come into the decision making process. Monte Ward said when the EOC wants to make a decision on the funding strategies it will go first to the Finance and Administration Committee and, from there, to the OCTA Board. He suspected there may be some back and forth between these two and the earliest there would be a conclusion on this would be mid-year or the end of summer 2015. In addition, the Resource Management Plans for the acquired properties will possibly be released in March 2015 and these will have a direct impact on the actual costs for management of the properties going forward.

Dr. David Chapel asked how many other EOC members would be filling out a matrix. Vice-Chair Melanie Schlotterbeck said the rest of the EOC members would be filling out a matrix – approximately five.

Monte Ward said the follow-up would be to distribute a package to all EOC members with instruction to those members who have not filled out a matrix to do this and supply them with the appropriate materials to help. The package will also include the full set of documents that the Ad-Hoc working group had prepared – Financials, Guiding Principles, Scoring Matrix, draft Funding Strategy, and language from the M2 Ordinance.

David Mayer said for clarity, monitoring and management on the preserves is required by the NCCP but he does not disagree with Dan Silver. There have been examples where the costs are exorbitant relative to the needs of the program. Additionally, having some money available for acquisitions that can be used to buy property not required for the NCCP/HCP can be used to leverage federal money.

#### Public Comment

Carl Reinhart said earlier in the meeting it was said OCTA had only a capacity of \$10 million for this program. He believes OCTA has the potential to borrow a lot more with "Solitary" Financing. It solves a big problem. As a representative of one of the owners, they have been holding back on development of one of the properties because they would like to make a deal with OCTA if they can. If OCTA does not have the money to do a deal with them they understand and they will move forward and the property will fall off the table. OCTA should consider coming to them with an offer of "Solitary" Financing because they will know they have a deal; they will have a long term financial stream and they will drop their development deal.

Monte Ward said the number OCTA is using relates to if they were to go into the market to borrow what they need in terms of coverage and what do they have in the terms of ability to report financing. It does not account for more creative or leveraged ways of using the capacity. It is just a raw number based on what they can go out and borrow for a cash purpose.

Vice-Chair Melanie Schlotterbeck suggested Kirk Avila, OCTA Treasurer, give a cash flow presentation at the next EOC meeting.

#### **4. NCCP/HCP and DEIR/EIS Update**

Marissa Espino gave a NCCP/HCP and DEIR/EIS Update. The public release of the draft Conservation Plan and environmental document took place on November 7, 2014 and concludes on February 6, 2015.

Vice-Chair Melanie Schlotterbeck said, at one time, there was talk of releasing the Resource Management Plans (RMP) for Trabuco Canyon properties first. She asked if this is still going to happen. Lesley Hill said yes, they just received the draft baseline surveys for the McPherson Properties. They are currently working on the Ferber property RMP. They will then take the Ferber RMP and utilize it as a template for the remaining Trabuco Canyon properties. They are handling the Hayashi property differently because it is geographically separate and borders Chino Hills State Park.

Vice-Chair Melanie Schlotterbeck asked if the McPherson and Hayashi properties will be released in 2015 or later. Lesley Hill said 2015 is still the target for release of these properties but not as soon as the Trabuco properties. Monte Ward said they still have outstanding discussions about acquisitions. Anything they have in this area will probably not get completed this year, but the template should be set by the end of the year.

#### **5. Public Comment**

Paul Thier made the following comments:

- He has no intention in maintaining the road on the Ferber Ranch property that he has an easement on for use by the public.

- He has reviewed the Management and Monitoring Plan, Chapter 7.2.5.6 Land Use Adjacent to the Preserve. He is sure OCTA is aware of the term “inverse condemnation”. OCTA has now taken property that, before the property was purchased, had restrictions on it and OCTA has now added another layer of restrictions on it thus reducing the value of the property. He said if OCTA checks with an attorney this is the definition of “inverse condemnation”. He is not the only one raising this issue. He has spoken to one or two others. He suggested talking to an attorney before implementing this portion of the Plan.

## **6. Committee Member Reports**

Dan Silver said given the funding challenges the EOC is going to be facing, he suggested they start investigating in other sources of funding – particularly State and Federal. He and Vice-Chair Melanie Schlotterbeck are members of a coalition of NCCP/HCP statewide. The purpose of the coalition is to develop state and local funding. He would like to see the EOC get involved with the group and look for other state and federal money.

Vice-Chair Melanie Schlotterbeck asked if any OCTA staff present knew when the OCTA legislative priorities are set up. Monte Ward said there is a legislative committee for OCTA and it would be appropriate if there are ideas or priorities from the EOC to communicate them to this committee. He believed it would be worthwhile to do a workshop type of setting to do a little education. Then they would look at defining opportunities and how they match what OCTA has in terms of a funding stream. This might be a way to go, after the EOC reviews the cash flow presentation. One of the directives within the M2 Ordinance is to use the funds to try to match or leverage with other funds.

Monte Ward responded to Paul Thier's comments. He told Paul Thier to make sure his comments were part of the record. Not only at the EOC meeting, but within the Conservation Plan. This way they can respond accordingly.

## **7. Next Meeting – TBD**

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

## **8. Closed Session**

The EOC adjourned to Closed Session at 11:00 a.m. and ended at 12:00 p.m. with no public report.

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.

<u>Real Property</u>	<u>Geographic Area</u>	<u>Assessor's Parcel Number</u>	<u>Owner's Negotiator</u>	<u>Acreage</u>
<b>Aliso Canyon</b>	Coastal	056-240-66	John Mansour	150
<b>Ferber Ranch</b>	Trabuco	842-011-04, 842-041-04, 842-051-04	Tim Jones	399
<b>Irvine Mesa Corridor</b>	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
<b>St. Michael's Abbey</b>	Cleveland Nat'l Forest	876-034-01, 876-041-01, 105-051-83, 105-051-84, 105-051-85, 105-070-93	Michael Recupero	327.9
<b>Mitchell Properties West</b>	Trabuco	842-081-12	Steven U. Parker	101.7
<b>Saddleback Meadows</b>	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
<b>Sky Ranch</b>	Trabuco	842-021-4, 05, 07, 08 and 842-031-04, 05, 08, 09	TBD	526.9
<b>Takahashi (Baker Square LLC)</b>	Cleveland Nat'l Forest	105-051-12	Carl Reinhart	643
<b>Watson</b>	Trabuco	858-021-10, 11	TBD	98.3