



**Mitigation and Resource Protection Program Oversight Committee
Environmental Oversight Committee
Orange County Transportation Authority**

November 18, 2009

**County of Orange
Planning Commission Room, 1st Floor
333 West Santa Ana Boulevard, Santa Ana**

11:30 a.m. - 1 p.m.

AGENDA

- 1. Welcome**
Honorable Patricia Bates, EOC Chair
- 2. Approval of September 2009 Minutes**
- 3. Conservation Assessment Presentation**
Patricia Gordon-Reedy, Conservation Biology Institute
- 4. Right of Way Process**
James Staudinger, OCTA
- 5. Public Comments** *(Public comments on all items take place at this time.)*
- 6. Next Meeting – Dec. 17, 2009** (at OCTA from 1-5 p.m.)
- 7. Committee Member Reports**
- 8. Adjournment**

Public Comments: The Agenda descriptions are intended to give notice to members of the public of a general summary of items of business to be transacted or discussed. Members from the public wishing to address the Committee will be recognized by the Chairman at the time the Agenda item is to be considered. A speaker's comments shall be limited to three (3) minutes. Any person with a disability who requires a modification or accommodation in order to participate in this meeting should contact the OCTA at (714) 560-5725, no less than two (2) business days prior to this meeting to enable OCTA to make reasonable arrangements to assure accessibility to this meeting.

Environmental Oversight Committee

Meeting Minutes

September 2, 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
Sylvia Vega, Caltrans
Erinn Wilson, CA Department of Fish and Game

Committee Members Absent:

Veronica Chan, US Army Corps of Engineers
Debbie Townsend, California Wildlife Conservation Board

Orange County Transportation Authority Staff Present:

Ellen Burton, Executive Director of External Affairs
Marissa Espino, Senior Community Relations Specialist
Janice Kadlec, Public Reporter
Dan Phu, Project Development Section Manager
Monte Ward, OCTA Consultant

1. Welcome

Chair Patricia Bates welcomed everyone to the meeting at 10 a.m. and asked committee member Cathy Green to lead the pledge of allegiance.

2. Minutes

Chair Patricia Bates asked if there were any additions or corrections to the June 3, EOC Meeting Minutes. Committee member Erinn Wilson asked to have her statement on page 3, last sentence clarified to the following: "Erinn Wilson said they are responsible for the length of the permit or 50 years. OCTA is responsible for establishing a management endowment in perpetuity for the length of the permit which can be up to 50 years."

A motion was made by committee member Adam Probolsky and seconded by Committee member Cathy Green to approve the August 5, 2009 meeting minutes as corrected. The motion passed unanimously.

3. New EOC Member Introduction: Nancy Jimeno

Chair Patricia Bates introduced Nancy Jimeno, a new member to the EOC. Committee member Jimeno gave her background and information of her current position at CSUF.

4. Planning Agreement & Master Agreement Update

Dan Phu gave an update on the progress of the Planning Agreement and Master Agreement. Dan said concurrence for the Planning Agreement was received from US Fish and Wildlife Services (USFWS) and Department of Fish and Game (CDFG) at the end of August. They are still waiting for comments from Caltrans on the Master Agreement.

Chair Patricia Bates asked if the Agreements would be ready for EOC approval at their next meeting. Dan said he is very hopeful approval of the documents will be on the next agenda. The Planning and Master Agreements serve as the authorizing documents for the NCCP/HCP and need to be executed in order to proceed.

Monte Ward said the M2 Ordinance states the Master Agreement is the trigger for the expenditure of mitigation funds. These Agreements must be in place before anything can be purchased.

5. Property Acquisition/Restoration/Management Criteria Matrices

Monte Ward said the EOC previously approved property acquisition, restoration and management criteria. Monte reviewed the process for converting these criteria into a workable set of matrices to be used for evaluating properties and projects.

Committee member Adam Probolsky asked how to evaluate the cost for maintenance and restoration. Monte said they would look at the Funding Section and the Management and Cost Constraints Section to evaluate. Both Sections would be used to assess the long-term management cost.

Vice-Chair Melanie Schlotterbeck suggested including the results of the Property Analysis Record (PAR) into the Funding Section. Dan Phu said this could be included as a sub-set of the Price Per Acre.

Committee member Director Cathy Green asked if the land was under a conservancy does this meet the criteria for management. Monte Ward said it does from an institutional standpoint, but cost would still need to be taken under consideration. Committee member Jonathan Snyder said it should be a consideration if there is an available agency willing to takeover management.

Public Comments:

Steve Ray, Executive Director of the Banning Ranch Conservancy asked three questions of the EOC:

1. Is there a weight for each section of the criteria, and how is that determined?
2. How is the biological criteria assessed and by whom? Will a previous biological assessment of a property be considered?
3. How is the endowment determined and how is it calculated?

Monte Ward said a specific numerical weighting has not been assigned. What has been done in terms of Tier 1 and Tier 2, is to identify things that would be considered and the importance of them. As an example, a property would have to do well in Tier 1 to be considered.

In answer to question 2, Monte said representatives of the signatory agencies – Caltrans and OCTA/Conservation Biological Institute (CBI), would do the biological criteria assessment. Determination of the non-biological factors is still being worked on.

Monte said in respect to how the endowment will be determined (Question 3), the PAR will be a key factor in determining what needs to be done.

Committee member Erinn Wilson explained the PAR is propriety software that takes all considerations in a property, crunches the numbers and turns it into a cost per year basis and, from this, a cost per acre can be established as well as an idea of what the endowment should be.

Monte Ward reviewed the Measure M Property/Project Evaluation Process and presented a flow chart of the evaluation process. The committee members provided suggested changes to the document.

Chair Patricia Bates asked when the CBI Conservation Assessment would be finished. Dan Phu said CBI has been updating their study with additional data and should be ready by mid-October for the draft final documents.

Committee member Adam Probolsky asked how many properties are being considered. Monte said there should be more than 100 properties based on submittals and properties on the Green Vision Map. Committee member Probolsky asked when would the EOC see a list of properties. Monte said everything should be ready by mid-October.

Committee member Nancy Jimeno asked if a property had some type of biological evaluation on record, would it be acceptable or would CBI need to do another certification. Monte said the CBI information is being used as baseline information and CBI will evaluate all properties. However, additional information submitted by individual properties can also be used for evaluation.

6. Environmental Mitigation Program Schedule

Dan Phu reviewed the Environmental Mitigation Program Schedule and highlighted the major milestones. Monte Ward said in mid-October there might be a need to have an additional EOC meeting. The committee discussed the schedule and the need for one or more special meetings and the need for extended meeting times.

Committee member Dan Silver reported he had a suggestion from one of the property owners, who suggested OCTA start a parallel process to gear up for the real estate transactions. There are different aspects to this – one is to figure out who is buying the land and what paperwork will be needed. Monte Ward said OCTA is anticipating this and is setting up an internal working group to handle it.

Chair Patricia Bates suggested continuing open communication with the property owners on the progress of the Mitigation Program. Ellen Burton said OCTA could mail a fact sheet to the property owners and email them updates. Marissa Espino said OCTA has a database of the property owners and the minutes of the meetings are online. Monte Ward suggested sending an email to the stakeholder group pointing out actions and recommendations have been made and this will make them aware the project is going forward.

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

There were no further public comments.

8. Next Meeting

The next meeting of the Environmental Oversight Committee will be Wednesday, October 7, 2009 at 10 a.m.

9. Committee Member Reports

There were no public comments.

10. Adjournment

The meeting adjourned at 11:15 a.m.

RENEWED MEASURE M FREEWAY ENVIRONMENTAL MITIGATION PROGRAM RIGHT OF WAY PROCESS

1. Review OCTA Board approved Right of Way Policies and Procedures and determine how this can be augmented to fit the needs of the Environmental Mitigation Program (Program) acquisition process.
2. Participate in the Project Team meetings for the Program.
3. Review available property information for properties identified in the Conservation Assessment's core and linkage areas as high probability acquisitions.
4. Participate in the property evaluation process to select properties that will be acquired for the Program.
 - A. Review topographic maps, aerial maps, Assessor's Parcel maps.
 - B. Perform field inspection.
 - C. Review any other information presented/provided by the property owner.
 - D. Evaluate properties using the Property Acquisition: Non-Biological Factors.
 - E. Recommend carving out unnecessary portion of a larger property, if there is no biological value/credit given by the Resources Agencies.
5. Prepare a Staff Report and obtain OCTA Board approval to acquire properties from a list of eligible properties that meet the needs of the OCTA and Resources Agencies.
 - A. Specify conditions of purchase (per OCTA Right of Way Policies and Procedures).
 - B. Make revisions as requested by Board.
 - C. Recommend to obtain blanket authority to acquire, rather than specific parcel authority from Board.
6. Conduct a "restricted appraisal" as a first step to price negotiation.
7. Prepare a "Letter of Understanding" to be signed by OCTA and Property Owner identifying the conditions under which the property will be acquired.
 - A. At appraised value.
 - B. Subject to due diligence.
 - C. Free and clear of hazardous materials.
 - D. Free of easements that would impede the needs of the Program.
 - E. Declaration of existing condition.
 - F. Subject to approval of existing conditions (physical, legal, tenants, etc.).
8. Conduct a Preliminary Analysis Record (PAR) to determine the cost of managing the land.
9. Order Preliminary Title Report for the property; review for liens and encumbrances that may affect the property.
10. Order appraisal from existing contractor list.
11. Order Phase I and Phase II environmental site assessment reports through existing contractor list.
12. Prepare land survey, legal description and exhibit maps, if necessary, through existing contractor list.
13. Make offer for property.
14. Negotiate terms of purchase, obtain approval per Board requirements.
15. Open and Close escrow through existing contractor list.
16. Handle property management through existing contractor list until property is transferred to another property.