

**NEWPORT BAY WATERSHED EXECUTIVE COMMITTEE
Meeting Minutes**

- Date and Location:** August 20, 2008 – 3:04 p.m. - 5:33 p.m.
Boardroom of the Irvine Ranch District
15600 Sand Canyon Avenue
Irvine, CA 92618-3102
- Participants:** Hon. John Moorlach, Chair, County of Orange, Second District
Hon. Kathryn McCullough, City of Lake Forest
Hon. Nancy Gardner, City of Newport Beach
Hon. Jerry Amante, City of Tustin
Mr. Maurice Gallarda, Santa Ana Regional Water Quality Control Board (replacing John Withers)
Mr. Sat Tamaribuchi, The Irvine Company
Mr. Paul Cook, Irvine Ranch Water District (for Peer Swan)
Ms. Helen Birss, Department of Fish and Game (for Ed Pert)
- Committee Staff:** Ms. Mary Anne Skorpanich, County of Orange
Chris Crompton, County of Orange
- Attendees:** Jamie Aderhold, J2A
Dennis Baker, Newport Bay Naturalists and Friends
Mark Batarse, County of Orange, Second District
Susan Brodeur, County of Orange
Garry Brown, OC Coastkeeper
Amanda Carr, County of Orange
Wanda Cross, Santa Ana Regional Water Quality Control Board
Stuart Goong, County of Orange
Jamie Habben, County of Orange
Irwin Haydock, OC Resident
Jack Keating, Newport Bay Naturalists and Friends
Dave Kiff, City of Newport Beach
Penny Lew, County of Orange
Terri Reeder, Santa Ana Regional Water Quality Control Board
Ambrosia Sarabia, The Log Newspaper
Carolyn Schaffer, County of Orange
Scot Scialpi, The Irvine Company
Doug Stack, City of Tustin
Bob Stein, City of Newport Beach
Marilyn Thoms, County of Orange
Jan Vandersloot, Stop Polluting Our Newport
Alex Waite, City of Tustin
Marsha Westropp, Orange County Water District
Bob Woodings, City of Lake Forest

Agenda Item 1 – Introductions

The meeting was called to order by the Executive Committee Chair, Supervisor John Moorlach at 3:04 p.m. Supervisor Moorlach introduced himself and requested that each Executive Committee member introduce themselves.

Agenda Item 2 – Minutes of the May 21, 2008 Meeting

The minutes of the May 21, 2008 meeting were presented to the Executive Committee.

*Motion: Approve minutes:
First/Second: Councilwoman Gardner/ Councilwoman McCullough
Abstained: Supervisor Moorlach, Mr. Cook, and Mr. Gallarda
Outcome: Approved*

Agenda Item 3 – Report on the Status of Upper Newport Bay Ecosystem Restoration – Project, Funding Alternatives, and Sediment TMDL Status

Ms. Susan Brodeur, County of Orange, OC Watersheds, provided the status of the Upper Newport Bay Ecosystem Restoration Project that is currently under construction. She gave an overview for those not familiar with this project from previous meetings. The project elements include: 1) dredging the two basins to allow for sediment capacity coming down San Diego Creek; 2) restoration of some of the side channels; 3) construction of a new Least Tern Island; and, 4) segmenting the old salt dike to reduce predator access.

Ms. Brodeur noted that the Corps will be awarding a further modification to the dredging contract with additional federal funds.

Ms. Brodeur described the remaining items that need to be completed beyond this phase: 1) additional dredging in the Unit I/III basin; 2) some wetland restoration near the Newport Aquatic Center; 3) removal of Skimmer Island; 4) scour protection around the Jamboree Bridge; and, 5) project monitoring post construction.

Ms. Brodeur summarized the sediment removal to date. The Unit II Basin has been completed and deepened to minus 20 feet mean sea-level with a total of 810,000 cubic yards removed and materials deposited offshore at an approved EPA site off Newport Harbor. The Unit I/III basin has been deepened in parts to minus 20 with a total of 260,000 cubic yards removed. The contractor is still working in Unit I/III Basin to remove an additional 118,000 cubic yards and following that there will be 550,000 cubic yards left to remove, including Skimmer Island.

Ms. Brodeur showed a June survey map of the Unit I/III Basin. The Basin generally meets sediment TMDL targets except in limited areas that were highlighted in yellow.

Councilwoman Gardner asked if the yellow corresponded with what remains in the contract.

Ms. Brodeur replied, no, the yellow illustrates the area that is still above minus 7 feet mean sea-level sediment TMDL target.

Ms. Mary Anne Skorpanich, County of Orange, OC Watersheds, added that the survey looked at a point in time in June with no relative meaning to the compliance point for the sediment TMDL.

Supervisor Moorlach asked why the estimate for further dredging went up.

Ms. Brodeur replied that costs have gone up because the project is taking longer than originally estimated. The original plan was to do this project in two years. Due to the trickling in of federal funds the Corps has been unable to award the complete project and has contracted out a portion of it with the available funds. As they receive additional congressional and local funding they have added onto that contract and expanded the scope of work. She noted that if they had been able to contract the entire project at one time there would have been a better price. Recent modifications have begun to reflect increases in labor and gas prices beyond the 2005 estimate. The total project cost will therefore be higher than the original estimate in 2005.

Councilman Jerry Amante asked how long the revised \$45.8 million project cost number is good for and the horizon for project completion.

Ms. Brodeur replied that it is unknown how long it is good for.

Ms. Skorpanich added that the pace of federal funding has been slow, resulting in a lengthening of the estimated time for project completion. It was thought that it would take an additional \$14 million to complete the project but bids reveal it is costing more as time goes on.

Ms. Brodeur continued that when the total project cost goes up, the local cost share also goes up. The local share so far has come from a \$13 million grant from the Coastal Conservancy and it is all accounted for and obligated. \$12.3 million has been requested in the federal budget. In the House version of the bill there is currently \$2 million and in the Senate version of the bill \$3 million. In the past, the lower of the two amounts has generally been authorized. She noted that a signed budget is unlikely by the time the Fiscal Year starts on October 1 and that a Continuing Resolution will authorize spending in this situation. The goal is to continue the project using the likely \$2 million federal appropriation. In addition the Corps has additional funds estimated at \$1.4 million that they can award towards the Unit I/III basin.

Ms. Brodeur noted that several grants had been applied for in addition to the federal funding:

- Wildlife Conservation Board grant (asking for \$4 million, likely to only get \$2 million)
- National Coastal Wetlands Conservation grant from the US Fish and Wildlife Service (anticipating \$1 million, but will know for sure in Spring 2009)
- West Coast Estuaries grant by the US EPA (since the grant money cannot be used to match federal money, this disqualifies the project)

In answer to questions regarding continuing the existing contract versus initiating a new contract Ms. Skorpanich responded that the Corps has authority to add additional work onto the contract that they already have. It saves paying for mobilization and demobilization of a different contractor and will likely cost less than to bid it out to a new contractor.

Councilwoman Gardner asked if the Corps has committed a date for contracting the additional work.

Ms. Skorpanich replied as of yesterday, the Corps had said that they would make every effort to have it contracted out by September 30, which is the end of their fiscal year.

Councilman Amante asked about matching it using local dollars.

Ms. Brodeur replied that it is a possibility.

Councilwoman Gardner suggested that the project is under a tight time frame and that come September we may be through with existing dollars. She asked about the confidence in this funding.

Ms. Skorpanich replied that work has been contracted out through September and the additional \$1.4 million will get us into October. The new federal fiscal year will bring possibly \$2 million of new federal appropriations based on House/Senate appropriation bills, the availability of which depends on the rules that Congress issues between October 1 and the time when the budget bill is adopted. This could keep work going possibly into November.

Councilwoman Gardner asked if there is an estimation of meeting the Sediment TMDL, and what would have to be done to meet the TMDL.

Ms. Skorpanich responded that the whole project is not needed to meet Sediment TMDL criterion of -7 feet, mean sea-level. She believed we will meet the criterion, but will know better in November.

Councilwoman Gardner asked whether we owe any more matching funds with the new federal funds.

Ms. Brodeur replied no, that the federal government is still playing catch up.

Councilwoman Gardner asked if we still need funds whether it is possible with the grants.

Ms. Skorpanich replied that we may need authorization from Congress in order to exceed the 65/35 match. She expected to know in a few weeks where we stand on that. If authorization is needed it may take more time.

Councilwoman Gardner asked whether local funds could be contributed to keep the project going and whether those funds would be paid back.

Ms. Skorpanich replied that it is extremely unlikely that advanced monies would be repaid and there should not be an expectation of payback. In addition, there would still be the need for overmatch authorization. If the project became a local project after Corps shut down, authorization would not be an issue but there would be a gap to get new permits.

Supervisor Moorlach noted that the agenda had two actions items and asked if it were the intent to state “TMDL load” in the letter or if that was redundant.

Ms. Skorpanich replied that the Chair will be provided with a revised letter.

Mr. Sat Tamaribuchi stated that he was going to set up a meeting with the Wildlife Conservation Board and the Director of Fish and Game to urge them to grant give \$4 million instead of the \$2 million to keep the project going.

Two action items were affirmed without a formal vote:

- 1. Approve the Chair sending letters of support on behalf of the Executive Committee to the granting agencies for the current grant proposals*
- 2. Request that agencies and organizations provide individual letters of support to the granting agencies for the current grant proposals*

Agenda Item 4 – Update on changes to Executive Committee structure and role

Ms. Skorpanich described the direction provided by the Committee in previous meetings, which was to broaden the areas of responsibility, add new members and expand geographically to include all of the Central Watershed Management Area. A draft amended and restated agreement was presented which would underpin these changes. Ms. Skorpanich requested the Committee to discuss any of the options or particular language in the agreement and provide direction to staff.

Mr. Gallarda noted that the original language “shall provide for funding” was removed and reduced the commitment for funding from the parties.

Ms. Skorpanich responded that the commitment to funding was in reference to items that have now been completed but believed the original text could be reinserted.

Councilwoman Kathryn McCullough suggested giving the draft a new number and noted that the language is confusing in regards to addressing whether it is a project or program. She asked if there is record of the comments and would like to review them.

Councilman Amante also asked to review the comments and noted that the purpose of the agreement needs to state what we want to do.

Councilwoman Gardner stated that the language is not clear as to what is being attempted and asked that it be clarified and strengthened.

Supervisor Moorlach asked how many attorneys have looked at the agreement and whether the changes to the agreement can be shown.

Ms. Skorpanich replied that County Counsel has reviewed the agreement and that it can be formatted to show the changes. She also noted that any comments received would be circulated.

Mr. Chris Crompton, County of Orange, OC Watersheds added that the Regional Board Counsel had also received a copy but had not provided comments.

Supervisor Moorlach asked what the next step is.

Ms. Skorpanich replied that staff will take direction from the Committee today and develop a revised draft for consideration. At next meeting the Committee can recommend adoption by the participants if it sees fit.

Councilman Amante asked if this will be the same process for the north and south watershed management areas.

Ms. Skorpanich replied, yes, that this will be a model that those processes will follow.

Agenda Item 5 –Update on Executive Committee Strategic Plan

Ms. Skorpanich described the outline table of contents for the Executive Committee's draft Strategic/Business Plan development. The Plan will outline three strategic priority areas: Environmental Project Priorities, Environmental Planning Priorities, and Organizational Priorities. The State Water Resources Control Board's recent Strategic Plan is being used as a model format. She asked for comments on the outline to determine if it was heading in the right direction.

Mr. Tamaribuchi asked that Borrego/Serrano Creek be included in the Project Priorities.

Mr. Crompton responded that Borrego/Serrano Creek are currently in the Planning Priorities section due to the Committee's direction that the Plan should have a 3 to 4 year horizon, which is through 2011. If the intent is to move Borrego/Serrano into project

implementation within the 3 to 4 years it should be added in the Project Priorities section in addition to the Planning Priorities section.

Mr. Paul Cook asked if there are established planning priorities criteria processes since he was concerned about a free-for-all.

Ms. Skorpanich replied that there are no ranking criteria established at this time.

Councilman Amante asked that the Watershed Management Area and Integrated Regional Water Management Plan remain priorities.

Mr. Gallarda emphasized the value of local plans.

Councilwoman McCullough stressed the need to address Borrego/Serrano. She noted that the goal of a clean Bay needs to address where everything is coming from otherwise we are wasting our money and defeating our cause.

Supervisor Moorlach asked if we could have more purpose for what the Committee is to do, what we are trying to achieve, and what goals we have accomplished.

Councilwoman Gardner stated that perhaps that could be part of the Executive Summary.

Mr. Tamaribuchi noted that there is a lot to be proud of. He asked that a program to address trash be added, including surveys of the sources, since the goal is cutting down what makes it into the Bay and Creeks.

Ms. Skorpanich noted that clean up days are one way to educate the public. She asked if the Committee would like staff to continue working on the Strategic/Business Plan based on the outline.

Supervisor Moorlach noted Board of Supervisors actions on trash. He asked staff to keep working on the Plan and bring it back at the next meeting.

Agenda Item 6a – Update on Serrano Creek Restoration and Borrego Wash Study

Ms. Carolyn Schaffer, County of Orange, OC Watersheds, provided an update on the restoration of Serrano Creek. Cost estimates include \$1.9 million for planning plus \$12.2 million for construction, for a total estimated cost of \$14.1 million. The County is continuing to pursue grant opportunities, however, most are specifically for implementation. It is challenging to find funding for planning efforts. Draft guidelines for the Urban Streams Restoration program, funded through Proposition 84, have been released. The program has a cap of \$1 million per project to be used primarily for implementation. An application requires two proponents, a local agency and a community group. The County will ask the City of Lake Forest to help identify the appropriate community group.

Ms. Jamie Habben, County of Orange, OC Watersheds, provided an update on the status of the Borrego Wash Feasibility Study. She reported that the County was awarded \$200,000.00 contract by the State Water Resources Control Board for the Borrego Canyon Wash Feasibility Study. The objective is to develop an approach to reduce channel erosion within Borrego Canyon Wash. Channel erosion studies by Dr. Stanley Trimble of UCLA determined that significant erosion from the banks of Borrego Wash had contributed to sediment deposition in the downstream watershed.

A subcontract with Pace Engineering was approved by the Board of Supervisors on July 22, 2008. Pace Engineering has an extensive history with Borrego Canyon Wash. Subsequent to the execution of the contract a suspension of work order was received stopping all work effective July 31, 2008 and Pace Engineering was also notified to stop work. The length of the suspension is currently unknown.

Councilman Amante asked what caused the suspension of work.

Ms. Skorpanich replied that it was a statewide and that it went out pending the resolution of the state budget along with proposals to reduce temporarily the pay of state workers and other budget cutting measures.

Agenda Item 6b – Integrated Regional Water Management Plan – Prop 84 Funding and Regional Status

Ms. Carolyn Schaffer, County of Orange, OC Watersheds, provided an update on the integrated regional water management planning efforts in the watershed. The County is continuing to pursue opportunities for funding the Proposition 50, Round 2 grant proposal through Proposition 84. The State's priorities appear to be drought related for the first round of Proposition 84 funding expected later this year.

Regarding Proposition 84, Ms. Skorpanich reported that as soon as the State's budget is approved DWR staff will determine which regions are qualified to compete for Prop 84 money. The Santa Ana Funding Region will receive \$114 million. She noted that the Central Watershed Management Area will need to weigh the options as to whether to pursue funding as a separate region or participate in the Santa Ana Watershed Project Authority (SAWPA) process.

Mr. Cook asked how we have a voice in the SAWPA process, and how this would help us achieve our goals. He suggested that we ask Celeste Cantu, Executive Director of SAWPA, to make a presentation to the Executive Committee. Supervisor Moorlach asked if this could occur at a special meeting.

Ms. Skorpanich replied that we could set up a workshop preferably before November. She identified some of the pros and cons of not joining SAWPA; the pros include DWR's preference for regions that have combined interests, history, and a strong governing structure; a negative is that we would be the smallest planning area within the Santa Ana region.

Mr. Garry Brown, Executive Director of Orange County Coastkeeper, was invited to give his insight as a member of the Steering Committee of SAWPA's One Water One Watershed planning effort. Mr. Brown stated that the Steering Committee is committed to the process however the governance has not been memorialized in a written document. There is a sincere attempt by SAWPA to do this on a fair region-wide basis.

Councilwoman Gardner asked if there would be a positive impact on the Newport Bay Watershed from participating in the SAWPA process or if our issues and priorities would be ignored since SAWPA's focus is upstream. She also noted that Newport Bay is not part of the Santa Ana River watershed.

Ms. Skorpanich stated we should hear directly from SAWPA in terms of what their plans are. She will arrange for a workshop to occur prior to the next meeting of the Executive Committee

Agenda Item 6c. Overview of ASBS Concept Grant Proposal

Mr. Bob Stein, City of Newport Beach, provided an overview of the Prop 84 Areas of Special Biological Significance (ASBS) Concept Grant Proposal. He is working with the County of Orange on obtaining a grant for ASBS areas off the Newport Coast. The projects in the proposal are part of the Central Orange County Integrated Regional and Coastal Watershed Management Plan. Based on the merits of the concept proposal, the City has been invited to submit a more detailed proposal.

He explained that in 2004 the State Board wrote a letter stating that no discharge of pollutants was allowed into ASBS areas per the State Ocean Plan. The State identified all the local drains into ASBS areas and required actions to be taken on drains in these areas. The grant is intended to protect marine life in these special areas with implementation projects. The request for \$2.5 million will include a \$1.7 million match from the City's general fund and a contribution from IRWD is also pending.

Mr. Stein identified seven component projects in the grant proposal including runoff reduction, low impact development bio-swales, development of an ecosystem impact metric, erosion control, reduction of public impacts on tide pools, and pesticide management.

Mr. Stein asked Committee members for letters of support for the grant application.

Ms. Skorpanich added that there are a number of grant programs under Prop 84 and that this is separate from the \$114 million for integrated regional water management plans discussed earlier.

Supervisor Moorlach asked Ms. Skorpanich to draft a letter of support for his signature.

Agenda Item 6d – Update on the PRISM Grant San Diego Creek Sediment Pesticide Study

Dr. Stuart Goong, County of Orange, OC Watersheds provided an update on the San Diego Creek Sediment Pesticide Study. The study focused on Organochlorines (OCs) in the Newport Bay watershed from January 2006 to January 2008. In March 2008 analysis of data was completed and a final report was submitted to Santa Ana Regional Board.

The major conclusions from the final report were that OCs were only detected during large rain events in the Newport Bay watersheds, and during these events daily TMDL targets for total DDT and total chlordane were likely to be exceeded. There were no significant loads of Toxaphene or PCBs detected in samples from the San Diego Creek watershed. Peters Canyon Wash appears to be the primary source of OCs in the San Diego Creek watershed. OCs were not detected during dry weather flows of minor rain events. Continued sampling is needed to strengthen our models and to try to localize sources.

Supervisor Moorlach asked about the source of the DDT since Orange County is not much of an agriculture county anymore.

Dr. Goong replied that DDT was banned and has not therefore been applied in a long time, approximately 35 years. The source is residual from historic agriculture.

Agenda Item 6e – Cooperative development of a Selenium TMDL

Mr. Crompton provided background on the Nitrogen and Selenium Management Program (NSMP) which was created in 2004 in an effort to study nitrogen and selenium in the Newport Bay watershed cooperatively with the Santa Ana Regional Board. A discharge permit was written allowing groundwater dischargers (mainly County, cities, special districts and land owners) to maintain compliance by implementing a comprehensive program of investigation and assessment of nitrogen and selenium. That permit expires at the end of next year and cannot be renewed.

Since the technologies are not in place to deal with selenium, the preferred regulatory solution for 2010 is to gain approval of a Selenium TMDL as an amendment to Regional Board's Basin Plan. Without it, the only options would be to conduct projects without discharging groundwater or obtain approval for discharges to the sanitary sewer, which could be difficult given the volumes involved and proximity to discharge points.

In order to prepare and gain approval of a selenium TMDL by mid 2009, the TMDL would need to be cooperatively developed with the Regional Board. The cost of this effort is approximately \$800,000 for consultant support. Funding for this has been identified in the shared TMDL budget by reallocating funds planned for implementation of the delayed Organochlorines TMDL to work on the Selenium TMDL.

Ms. Skorpanich added that costs are shared for the work program on nitrogen and selenium under one of the project implementation agreements. There are 30 partners sharing the cost, including most organizations on the Executive Committee.

Agenda Item 7 – Next Meeting Date

Meetings for 2008 and early 2009 were scheduled as follows:

November 19, 2008, 3:00 p.m. at Boardroom of the Irvine Ranch Water District

February 18, 2009, 3:00 p.m. at Boardroom of the Irvine Ranch Water District

Agenda Item 8 – Executive Committee Member Comments

There were no comments from the Executive Committee.

Agenda Item 9 – Public comments and general comments

Mr. Jan Vandersloot, Stop Polluting Our Newport, stated his interest in several environmental matters: 1) For the Newport Bay Ecosystem Restoration Project he suggested cutting costs by retaining Skimmer Island and not dredging deeper than needed. He wanted the focus to be on keeping the sediment upstream rather than having it flow down to the Bay; 2) He asked for creation of a policy on trash focusing on public education and the use of plastic bags; 3) With respect to SAWPA he noted it is most interested in water supply and their focus should be water retention to prevent flow into creeks; 4) With regard to the Marine Life Protection Act he supported Bob Stein's study and suggested a stakeholder committee; 5) Regarding selenium, he noted that Tustin's Air Force Base was known as the Swamp of the Frogs because it retained water. After it was drained the problems began. He suggested that if the water were again retained it would dilute the selenium and help eliminate the selenium problem.

Mr. Dennis Baker, Newport Bay Naturalists and Friends, suggested that a map be created with overlays to represent our size within the Santa Ana funding region with respect to endangered species and ASBS. He stated that, based on this graphical representation, the Newport Bay Watershed may appear larger by scale.

Mr. Jack Keating, Newport Bay Naturalist and Friends, stated that Upper Newport Bay has been declared as a State Natural Landmark. This provides us with geological and biological significance and stature which should be taken advantage of.

Irwin Haydock, Fountain Valley resident, noted the need for teamwork to do a watershed plan and cited as an example the Delta Visioning Process that is developing a water plan for self sufficiency.

Agenda Item 10 – Adjourn

The meeting was adjourned at 5:33 p.m.