

NEWPORT BAY WATERSHED EXECUTIVE COMMITTEE
Meeting Minutes

- Date and location:** August 19, 2009 2:35- 4:50 p.m.
Boardroom of Irvine Ranch Water District
15600 Sand Canyon Avenue, Irvine, CA 92618-3102
- Committee:** John M.W. Moorlach, Board of Supervisors and Committee Chair
Nancy Gardner, City of Newport Beach
Peer Swan, Irvine Ranch Water District
Kathryn McCullough, City of Lake Forest
Deborah Gavello, City of Tustin
Joseph Edwards, The Irvine Company
- Committee Staff:** Mary Anne Skorpanich, County of Orange
Marilyn Thoms, County of Orange
Chris Crompton, County of Orange
Amanda Carr, County of Orange
Kari Schumaker, County of Orange
Betty Martinez, County of Orange
- Attendees:** Dennis Baker, Newport Bay Naturalists and Friends
Garry Brown, OC Coastkeeper
Rick Francis, Chief of Staff to Supervisor Moorlach
Irwin Haydock, Fountain Valley Resident
Penny Lew, County of Orange
John Kabashima, U.C. Cooperative Extension
Jack Keating, Newport Bay Naturalists and Friends
Dave Kiff, City of Newport Beach
Mike Loving, City of Irvine
Roger Mallett, Newport Bay Naturalists and Friends
Lyndine McAfee, Nature Reserve of Orange County
Larry McKenney, RBF Consulting
Joe Parco, City of Santa Ana
Rory Paster, County of Orange
Riti Puri, Townsend Public Affairs
Doug Shibberu, Santa Ana Regional Water Quality Control Board
Mark Tettermer, IRWD
Alex Waite, City of Tustin
Marsha Westropp, OCWD
Robert Woodings, City of Lake Forest

Agenda Item 1 – Introductions

The meeting was called to order by Mr. Moorlach at 2:35 p.m., followed by self-introductions.

Agenda Item 2 – Minutes of the May 6, 2009 and June 17, 2009 special workshop

The minutes from the May 6, 2009 meeting were presented to the Executive Committee.

Motion: Approve minutes for May 6th
First/Second: Mr. Swan/Ms. Gardner
Abstained: None
Outcome: Approved

The minutes from the June 17, 2009 Special Meeting on One Water-One Watershed were presented to the Executive Committee.

Motion: Approve minutes for June 17th
First/Second: Mr. Swan/Ms. McCullough
Abstained: Ms. Gavello, Mr. Moorlach
Outcome: Approved

Agenda Item 3 – Elect a Chair and Vice Chair for the Executive Committee

The Committee members elected Mr. Moorlach as Chair of the Executive Committee and Mr. Swan as the Vice Chair.

Agenda Item 4 – Selection of Environmental Representative on Management Committee

Ms. Skorpanich described the application process used for soliciting individuals interested in serving as the Environmental Representative. Ms. Gardner asked about possible incongruity between the Environmental Representative and Alternate if they are from different organizations. Ms. Skorpanich explained that the Management Committee had discussed that issue in depth and concluded that selecting an Alternate who did not apply for the position would be inconsistent with the application process established. They also noted that the Representative and Alternate did not need to be from the same organization because they are tasked with representing the environmental community as a whole. With this understanding, the Executive Committee agreed with the unanimous recommendation of the Newport Bay Watershed Management Committee to select Roger Mallett as the Environmental Representative and Ray Hiemstra as the Alternate to the Management Committee.

Agenda Item 5 – Nitrogen and Selenium Management Program Implementation Update

Ms. Carr provided an update on the Nitrogen and Selenium Management Program, including projections of implementation phase costs. She also presented a preliminary proposal on a potential cost sharing structure between parties with short-term and long-term discharges.

Mr. Moorlach asked about the source of selenium in the watershed and Ms. Carr explained selenium is a natural occurring element that erodes from the foothills into groundwater. Prior to development, selenium was sequestered underground in the area known as Cienega de las Ranas, or the Swamp of the Frogs, the area of land where San Diego Creek used to terminate before it was channelized and connected to Newport Bay. Changes to the drainage regime by human activities transport selenium from groundwater to surface water, where it creates risks for wildlife.

Mr. Moorlach also asked Ms. Carr if the amount of selenium found in this geographical area was different than in any other areas of the state. Ms. Carr answered stated that other areas in California are encountering problems with selenium, but that the sources of selenium and related issues for Newport Bay are unique in some respects. Current standards are set on the amount of dissolved selenium in water. In the Newport Bay Watershed, however, less selenium is found in the tissue of fish and birds than would normally be expected based on water levels. For this reason, a Site Specific Objective or standard for selenium is expected to be adopted in December 2009. The proposed selenium objective in the Newport Bay Watershed will key compliance to actual selenium levels in fish tissue and bird eggs, while selenium levels in the water will be used to guide management actions. In addition to the Site Specific Objective, a new Total Maximum Daily Load (TMDL) for selenium is also expected to be adopted by the Regional Water Quality Control Board in December.

Ms. Gardner asked what activities would be funded in Phase I of implementation. Ms. Carr explained that the first seven years would focus on validating treatment technologies and completing studies needed to determine the most effective locations in the watershed for treatment projects, at an estimated cost of \$16-17 million. The Cienega Treatment System has already been operating on a small scale but long term treatment effectiveness was intended to be analyzed during this phase. However, IRWD was very recently awarded federal stimulus funds to build out the project to full scale so this project is moving forward now. Diversions to sewer are known to be effective, but the amount that the Orange County Sanitation District might be willing to accept and the best locations for diversions will be determined. A demonstration scale AbMet Treatment System will be built and monitoring performed to meet regulatory compliance and evaluate treatment systems. In the second half of Phase I, technologies such as permeable reactive barriers and subsurface wetlands will be further evaluated so that other options are available if long term treatment effectiveness cannot be achieved with the three most promising solutions.

Mr. Swan asked for clarification on what the \$16 to \$17 million cost estimate for Phase I would include. Ms. Carr answered that the proposed cost estimate is for the installation of demonstration-scale programs for each of the proposed technologies. She also explained that Phase I will include some longer-term testing which is needed beyond what currently exists for

some of the more proven technologies such as the Cienega Treatment System. Ms. Skorpanich clarified that the three more proven technologies: diversion to sewer, the Cienega Treatment System, and AbMet treatment, have gone through small scale testing already; however, there's still development work to do. The three shown in yellow are the ones that will be utilized early in the process however it is not certain if those three alone will bring levels down to where they need to be to meet compliance. Therefore, the other three technologies, which need much more experimentation, data collection, and testing, will be studied.

A member of the public asked if Orange County was the first in California to have a TMDL for selenium. Ms. Carr responded that there is a selenium TMDL for an area in the Central Valley. She also clarified that there is no TMDL as of now but that one is scheduled for adoption by the end of this year in December 2009.

Ms. Gardner asked if the other three technologies that will require more experimentation have ever been used by anyone else. Ms. Carr replied that they have been used to treat other contaminants, but not selenium. Ms. Gavello asked if there have been any areas nationally or internationally, perhaps former mining areas, where nitrogen and selenium have both required treatment similar to the situation in the Newport Bay Watershed. Ms. Carr responded that mining areas would not have had an issue with nitrogen because nitrogen usually comes from agricultural practices. Ms. Carr answered that the Newport Bay Watershed would be the first to address this specific problem. Ms. McCullough added that the Newport Bay Watershed is usually ahead of others when it comes to watershed solutions and that others are learning from and following the Newport Bay Watershed.

Mr. Edwards asked what the target levels will be for the new TMDL. Ms. Carr answered that initially the water column target will be set at 13 parts per million (ppm); the bird egg and fish tissue objectives will be five and eight parts per billion (ppb) respectively. However, she also noted that depending on the wildlife tissue samples that correlate to those water column levels, the water column target might have to be readjusted. Mr. Edwards asked how close we are to meeting those targets and Ms. Carr answered that we are close to meeting the tissue targets.

Mr. Swan stated that he felt the cost-share formula did not seem fair. He feels that the cost share should be proportional to contribution to the problem and Ms. McCullough agreed. Ms. Carr explained that if the regulated entities in the Newport Bay Watershed does not cost share on its own, that the Regional Water Board will dictate the cost-share in the MS4 permit. Ms. Carr also informed everyone that this is a potential framework for how costs could be divided; a draft funding agreement for NSMP is currently in development and will be presented at a future meeting when more details on allocations are available.

Action Items: Staff will: (1) compile a matrix of costs, showing both a cost breakdown and how the cost-share percentages were determined; (2) send the BMP Strategic Plan to the Committee before the next meeting; and (3) incorporate the City of Newport Beach's report on subsurface wetlands with the information compiled on the treatment technologies.

Item 6 – Review on progress on Business Plan

Ms. Skorpanich informed the Executive Committee that a preliminary draft of the Business Plan was presented for review and comments. Ms. Gavello recommended that the lengthy background information on water quality issues could be omitted to create a shorter and more concise document. Ms. Gardner felt the information was useful, but perhaps could be included as appendices instead of within the body of the document. The Executive Committee gave further direction to staff.

Action Item: Staff will make the appropriate changes and additions to the Business Plan and report back at the November 18, 2009, meeting. If necessary, at that time, the Executive Committee will form a subcommittee to guide the final version of the Plan.

Item 7a – Serrano Creek Restoration, Borrego Wash Study, and Upper Newport Bay Ecosystem Restoration Project

Ms. Skorpanich provided a briefing on the three projects. *Serrano Creek:* Ms. Gardner asked if any feedback was available regarding the rejection of the Section 319(h) Clean Water Act grant proposal that staff submitted to the US Environmental Protection Agency. Ms. Schumaker replied that the grant was denied because the project is only at a conceptual stage rather than more fully designed and no local cost-share agreement had been formalized. *Borrego Wash:* Ms. McCullough asked which cities were involved in the stakeholder group and Ms. Skorpanich listed the Cities of Lake Forest and Irvine. Ms. McCullough suggested that the City of Newport Beach be invited to join the stakeholder group. *Upper Newport Bay Ecosystem Restoration Project:* Stimulus funding was approved for completion of this project. U.S. Army Corps of Engineers is soliciting bids for the remainder of the construction work and the bidding period will close one week from Friday. A contract is scheduled to be signed in September 2009.

Item 7b – Progress of Trash Booms and Source Control Plan for Trash in San Diego Creek

Mr. Crompton provided a status update on the trash boom and Source Control Plan. Ms. McCullough asked if the IRWD boom was going to be used for this project and if it is in need of repair. Mr. Crompton replied that the boom was being reconditioned at a minimal cost and would be utilized for the project. Mr. Swan asked if it was possible to have the trash boom up by November 1, 2009. Ms. Skorpanich replied that there were no immediate plans to install because funding and responsibility for ongoing maintenance had yet to be determined. Mr. Swan volunteered IRWD for the maintenance of the boom for one year if it is installed by November 1, 2009.

Mr. Crompton replied by saying that there is an issue with obtaining the necessary permits by that timeline. Mr. Moorlach asked what the issue was with the permits. Rory Paster from the County's Regulatory Permits Section explained that it is very difficult to receive any feedback or approval for permits from the resource agencies in a short time frame. These agencies include the U.S. Army Corps of Engineers, the California Department of Fish and Game, and the

Regional Water Quality Control Board. Mr. Paster also added that CEQA compliance would also need to be completed as a prerequisite to all of these applications. Mr. Moorlach offered to assist with this effort.

Action Item: Staff, with the assistance of Mr. Moorlach and other Executive Committee members, will pursue all the necessary approvals for the trash boom to be reinstalled by November 1, 2009.

Item 7c – Cooperative Agreement Update

Ms. Skorpanich shared that there would be a fourth amendment to the Cooperative Agreement in order to include the Cities of Santa Ana and Costa Mesa who have agreed to join the Committee. Mr. Moorlach asked how long it would take for everything to be approved. Ms. Skorpanich anticipated that by the upcoming November meeting the amendment would be adopted.

Action Item: Upon final approval of the Cooperative Agreement for the Newport Bay Watershed and the Central Watershed Management Area, Third Amendment and Full Restatement (Agreement No. D08-104), proceed with the approval of the Fourth Amendment and Full Restatement of Agreement No. D08-104.

Item 7d – Update on Integrated Regional Water Management Plan (IRWMP) and One Water, One Watershed (OWOW) Coordination

Ms. Skorpanich briefly reviewed the schedule for the Phase III Central IRWMP Schedule. Mr. Swan suggested that we establish quantifiable objectives before projects are prioritized so that everyone agrees on the high priority projects. Ms. Skorpanich assured the Committee that quantifiable objectives would be incorporated into the IRWMP and used to help set priorities. She also added that this is a difficult task the Management Committee is still working through, but that a rough draft of the plan will be ready by October and distributed to the Executive Committee.

Item 8 - Next Meeting Date

November 18, 2009
2:30 p.m.
Boardroom, Irvine Ranch Water District

Item 9 – Executive Committee member comments

Ms. Gardner asked if the OWOW plan had a final draft. Ms. Skorpanich replied that the plan that staff sent to the Executive Committee is the most current version of the OWOW plan.

Item 10 – Public Comments

Dennis Baker complimented the Executive Committee for demonstrating great leadership and for showing great enthusiasm throughout the years. He is excited to see that other cities such as Santa Ana and Costa Mesa will be joining the Committee.

Item 11 – Adjourn

The meeting was adjourned at 4:50 p.m.