

NEWPORT BAY WATERSHED EXECUTIVE COMMITTEE
Meeting Minutes

Date and Location: November 19, 2008 – 3:12 p.m. - 5:10 p.m.
Boardroom of the Irvine Ranch District
15600 Sand Canyon Avenue
Irvine, CA 92618-3102

Participants: Hon. John Moorlach, Chair, County of Orange Board of Supervisors
Hon. Kathryn McCullough, City of Lake Forest
Hon. Nancy Gardner, City of Newport Beach
Mr. Wally Kreutzen, City of Irvine
Mr. Fred Ameri, Santa Ana Regional Water Quality Control Board
Mr. Sat Tamaribuchi, The Irvine Company
Mr. Peer Swan, Irvine Ranch Water District
Mr. Stephen Juarez, 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
Susan Brodeur, County of Orange
Garry Brown, OC Coastkeeper
Amanda Carr, County of Orange
Michele Farmer, OC Sanitation District
Rick Francis, Deputy Chief of Staff to Supervisor Moorlach
Irwin Haydock, OC Resident
Nancy Hueller
Paul Jones, Irvine Ranch Water District
Penny Lew, County of Orange
Mike Loving, City of Irvine
Roger Mallet, Newport Bay Naturalists and Friends
Larry McKenney, RBF (for Lennar)
Joe Parco, City of Santa Ana
Kari Schumaker, County of Orange
Scot Scialpi, Irvine Company
Dr. Jack Skinner, Stop Polluting our Newport
Bob Stein, City of Newport Beach
Mark Tettermer, Irvine Ranch Water District
Marilyn Thoms, County of Orange
Alex Waite, City of Tustin
Jennifer Weiland, County of Orange
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 3:12 p.m. after a brief celebration to mark the 25th year of the Committee. 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 August 20, 2008 meeting were presented to the Executive Committee.

Motion: Approve minutes

First/Second: Councilwoman Gardner/Councilwoman McCullough

Abstained: Councilman Kreutzen , Mr. Ameri, Mr. Juarez, and Mr. Swan

Outcome: Approved

Agenda Item 3 – Report on Status of Upper Newport Bay Ecosystem Restoration Project

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 of two of the 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; 4) segmenting the old salt dike for reduced predator access. The new cost estimate for the entire project submitted by the Corps is \$45.8 million. She noted that recent work has been focused on removing dredge spoils at 23rd Street and amphibious excavation in side channels near Shellmaker Island.

Ms. Brodeur described the remaining items that need to be completed: 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; 5) project monitoring post construction.

Ms. Brodeur stated that the Corps will be awarding an additional modification to the contractor's contract with Federal funds. With \$2 million from the continuing resolution that construction should be able to continue through February 2009. In addition, the Wildlife Conservation Board will be approving a grant for \$2 million dollars on November 20. This money would allow the project to continue through March 2009. On the horizon, a grant request has been submitted through National Coastal Wetlands Conservation for \$1 million. Notification of funding will occur in December, and use of this funding may be available in April/May 2009.

Mr. Garry Brown, OC Coastkeeper, questioned the increased rate of expenditure for the \$2 million. Ms. Brodeur responded that work on deepening the basins is work that

proceeds the quickest. Mr. Peer Swan asked if the current drop in costs might result in the project getting cheaper. Ms. Brodeur stated it is possible that those factors might affect the price of future work.

Agenda Item 4 – Update on Amendment and Restatement of Cooperative Agreement

Ms. Mary Anne Skorpanich, County of Orange, OC Watersheds, reviewed the background and prior discussions held by the Executive Committee on amending and restating the Cooperative Agreement. The Executive Committee had provided general direction to:

- Take on an expanded role in water quality beyond sediment and nutrient TMDL issues, including the Nitrogen Selenium Management Program, a number of other TMDLs and emerging water quality issues;
- Add a role as governing body of Central Watershed Management Area;
- Expand the boundary beyond the Newport Bay Watershed to include the Newport Coastal Streams Watershed;
- Add a Vice Chair position to support the current Chair position; and
- Create a single cohesive Cooperative Agreement in place the original agreement and a series of amendments over a 25 year period. The intention, once the agreement is updated, is to allow it to be easier for other cities and potential partners to be approached to become members of the organization.

She noted that the Executive Committee discussed the Cooperative Agreement at the last meeting and provided a number of comments, notably:

- The draft did not clearly state the purpose of the Executive Committee; and
- The draft did not restate the obligations in the original agreement for the maintenance of the sediment control program.

In response to these comments, Ms. Skorpanich described the changes in the updated version of the Cooperative Agreement.

- Goals and desired outcomes from previous planning work that had been done in the watershed have been added to the Purpose section.
- Elements of the original 1983 agreement related the Sediment Control Plan have been reinserted including the schedule although it was noted that many items were completed years ago and some updating was necessary; verbatim language that articulates the commitment and limitations to formulate funding agreements; and commitments agricultural and construction land management practices.
- A new Whereas statement that the Parties intend to implement the Sediment Control Plan unchanged under the amended and restated Cooperative Agreement.

She noted that a redline version had been provided at the start of the meeting that showed the changes made in strikeout/underline form. In addition, three Whereas statements from

the original agreement and a new procedural Section 11 on Agreement execution had been added. These latter changes were shown in green highlight on the redline version.

Mr. Chris Crompton, County of Orange, OC Watersheds, added that the Executive Committee asked for a red-line to show changes. The redline version illustrates the changes between 1999 version with amendments and the present updated agreement. He Mr. Crompton also explained the difficulty showing the transition from three existing agreements into one new restated agreement in a redlined version.

Dr. Jack Skinner commented regarding the ability of the Executive Committee to deal with maintenance of the basins and concerns expressed by Regional Board staff on this issue. Mr. Ameri responded that he had talked with Joanne Schneider of the Regional Board staff and that she finds the updated agreement an acceptable restatement of prior obligations.

Supervisor Moorlach requested that a final version without strike outs be provided at the next meeting.

Motion: Approve Agreement in Concept
First/Second Supervisor Moorlach/Councilwoman Gardner
Outcome: Approved

Agenda Item 5a - Update on Central Orange County Integrated Regional and Coastal Watershed Management Plan – Phase II

Mr. Bob Stein, City of Newport Beach highlighted key elements of the draft plan that was distributed last month. The plan includes 130 projects. He noted that the planning process was begun by the County which is preparing plans for three Watershed Management Areas: North, Central, and South. The South County plan received a \$25 million implementation grant. The County led an effort in 2006 to prepare the first Integrated Coastal and Regional Water Management Plan for Central Orange County that formed the basis for Proposition 50 grant funds focusing on Areas of Biological Significance.

The City of Newport Beach received a grant to prepare a harbor area management plan for Newport Bay. The City felt that further watershed planning efforts were very important from the city's perspective so additional funding was sought. The City received an integrated regional water management planning grant from the Department of Water Resources in 2006 to undertake Phase II of integrated planning for Central Orange County.

Mr. Stein then described the current status of work on the project. The latest draft was released in October for review. Due to the complexity of the watershed planning area six sub areas have been established (the Bay, two foothill areas, the central plain, the Santa Ana-Delhi area and the Newport Coast). The Plan focuses on integrated planning approaches and includes project prioritization.

In concluding, Mr. Stein noted the following:

- There is no end to planning, but a point has been reached where things are starting to work together on a fundamental level
- Phase II can be brought to a close and he proposed workshops with stakeholders to look at the scoring process to reprioritize projects and establish a new prioritization list
- Phase II should be used as a platform for further Phase III work to keep this process going. He noted that an economist may be needed for this work.

Councilwoman Gardner stated that this has been a ground-up process and a tremendous amount of work has been accomplished. She encouraged finishing the process so that the Executive Committee can start getting money and doing things.

Mr. Larry McKenney, RBF, praised the planning process but noted that the City still has to satisfy the requirements of its grant in order to receive the grant funds.

Supervisor Moorlach asked why Newport Beach is working on this project opposed to any other municipality. Ms. Skorpanich replied that the City applied for a planning grant and received funding. The County had originally led an effort to come up with a plan that was submitted for funding under Proposition 50 to meet that short term deadline. The City grant was for work on a long term effort.

Mr. Stein added that the next phase would be transitioned back to the County.

Mr. Swan thanked the City of Newport Beach for the initiative and supported them receiving their planning grant funds. He is looking to the County to provide a road map on moving forward from this draft and asked that this be brought back at the next meeting.

Ms. Skorpanich confirmed that the County was prepared to take over the lead and by way of laying out the next steps, reviewed the schedule for Proposition 84 IRWMP funding. She noted that \$114 million will be available in the Santa Ana funding region. In early 2009 the State will undertake a Region Acceptance Process to determine which regions are qualified to submit Integrated Regional Water Management Plans for implementation grants. An expedited funding application process will follow (see also the discussion on Item 5.b).

Motion: *Thank City of Newport Beach*
 Approve transfer of planning to the County
First/Second *Mr. Swan/Supervisor Moorlach*
Outcome: *Approved*

Agenda Item 5b - Discussion of Regional Acceptance

Ms. Skorpanich provided a follow-up to the October 2 special workshop with SAWPA. At this workshop discussion took place on two alternatives for competing for Proposition 84 funding.

Under Proposition 50 each region competed statewide for funds. Under Proposition 84 the State has been divided into a number of different funding areas and funding has been allocated to each. The Central Orange County Watershed Management Area is in the Santa Ana funding region which has \$114 million. The alternatives are either to compete on our own or participate with SAWPA. The State announced last summer that they would institute a Region Acceptance Process which would examine the structure and organization of each region that wanted to compete for funds and determine which planning regions were eligible to compete for funding within each funding area.

Ms. Skorpanich noted that the October 2 workshop identified a number of advantages and disadvantages to the governance issue (see workshop minutes for more detail). A significant drawback to the SAWPA approach the Steering Committee is the ultimate authority in decision making. The SAWPA Commission has approval power over the Steering Committee that is overseeing the plan development. To date, opportunities to participate in the SAWPA plan development have been limited because meetings are not open or advertised and plan materials are not available to the public. Since the October 2 workshop when these issues were presented no change to the SAWPA structure or process has ensued.

The State will conduct its Region Acceptance Process in April 2009, with results announced May 1, 2009. Direction from the committee on whether to pursue qualification as our own planning region is needed.

The State has also issued a schedule for an expedited round of implementation funding for Integrated Regional Water Management Plans. The grant application period is April through May, 2009. The grant application period becomes the timeline for completing our draft plan if in fact we intend to compete and are deemed eligible by the State.

Councilwoman McCullough noted that she would be uncomfortable having others representing our watershed for planning purposes and preferred we compete as our own planning region.

Councilwoman Gardner stated that our questions posed to SAWPA at the October 2 workshop had not been answered and she therefore cannot support going forward in that direction. She asked for clarification on how far along SAWPA is versus how far along we are in plan development. Ms. Skorpanich replied that we are farther ahead since SAWPA is holding its planning workshop on January 29.

Councilwoman Gardner stated that we need to set an earlier meeting to avoid conflict.

Ms. Skorpanich requested to keep both options alive. She explained that grant funding from Measure M is an additional reason to complete our own plan.

Mr. Swan asked how we stack up in gaining approval in the acceptance process and whether comments should be submitted on the process. Ms. Skorpanich responded that The Newport Bay Watershed Executive Committee's structure and broad representation for the past 25 years appear to make us well qualified based on the legislation's intent.

Motion: Approve October 2 workshop minutes

First/Second: Mr. Ameri/Councilwoman Gardner

Abstained: Councilwoman McCullough

Outcome: Approved

Motion: Approve going forward with Region Acceptance Process for the Central Orange County Watershed Management Area

First/Second: Councilwoman Gardner/ Councilwoman McCullough

Outcome: Approved

Agenda Item 6 - Discussion of placing a permanent trash boom on San Diego Creek

Mr. Paul Jones, IRWD, described a trash boom pilot project conducted by IRWD in San Diego Creek. The project started in 2003 to measure trash collected and to characterize the findings. These efforts were made to assist with a potential trash TMDL.

The boom cost about \$89,000 and over four years removed over 12,100 lbs. of dried debris. The constituents were: 23% plastic, 4% paper, 3% metal, 3% glass, 41% Styrofoam, and 26% rubber. Maintenance costs were just over \$50,000.

Mr. Jones noted that the location for the pilot was problematic and did not include any vegetation removal. A long term proposal may need a vegetation removal permit and sediment removal as well. His recommendation is for the design of a long-term permanent boom and a cost-sharing proposal.

Mr. Swan noted that trapping trash in the Creek is better than in the Bay and requested the Department of Fish and Game to support the efforts of IRWD and the County. Mr. Juarez stated that what is needed is a maintenance agreement for the project. The habitat cannot be ignored and the concept feasible and doable.

Ms. Amanda Carr, County of Orange, OC Watersheds, noted that the San Francisco Bay Regional Board has added more listings for trash and that it would advantageous to get in front of the issue prior to having a TMDL for trash and debris adopted.

Mr. Roger Mallet, Newport Bay Naturalists and Friends, expressed support for the boom.

Mr. Dennis Baker, Newport Bay Naturalists and Friends, asked if a systematic plan for trash control can be developed including other devices.

Mr. Mike Loving, City of Irvine, asked how Styrofoam would be retrieved as it breaks down into smaller pieces.

Dr. Skinner stated that preventative actions other than the boom have been effective due to the actions of the Orange County Flood Control District.

Mr. Rick Francis, Board of Supervisors District 2 Office, asked about the frequency of debris removal. Mr. Jones replied that it is cleaned four to six times per year. He noted that the berm had a sag in the deep part of the channel that impedes cleaning and needs to be corrected.

Mr. Brown stated that Harbour Clean-Up Day was not necessary after the County placed a boom in the channels to Huntington Harbour.

*Motion: Place trash boom on the next agenda for follow-up:
First/Second: Mr. Swan/Councilwoman Gardner
Outcome: Approved*

Agenda Item 7 Information Items – Serrano Creek Restoration, Borrego Wash Study, Nutrient TMDL, Selenium TMDL, and Organochlorines TMDL Independent Advisory Panel

Serrano Creek Restoration

Ms. Skorpanich provided an update on the Serrano Creek restoration. She recapped the cost estimate from the Proposition 50 Integrated Plan and noted that we did not receive funding from that source. A grant of \$1 million has been requested from the Southern California Wetlands Recovery Project and the project is now their work plan. We need to obtain matching funds before those grant funds could be made available to us.

She noted that we have or will be applying for several grants including Proposition 84 and 1E-Stormwater Management. She anticipates that this project will still be ranked highly in the update of our Integrated Plan and if so it will compete well for the \$114 million in the Santa Ana funding region for IRWMP implementation.

Councilwoman McCullough stated that the Serrano Creek project is currently ranked third in the Plan's priority projects and so long as it does not lose priority she does not mind.

Borrego Wash Study

Ms. Carr provided an update on the Borrego Canyon Wash study, whose purpose is to reduce channel erosion. The funding was suspended by the State in July but reactivated at the end of October. The County is meeting with the consultant, Pace Engineering so that the project moves ahead expeditiously.

Mr. Swan asked if it would be cheaper to re-bid it. Ms. Carr replied that our timeline does not allow for the time that would be required and that the bid from Pace was very competitive.

Nutrient TMDL

Ms. Carr provided an update on the Nutrient TMDL. She noted that the Regional Board is considering a change to the water quality objective for nitrogen in San Diego Creek and subsequent revisions to the TMDL itself. The potential new standards would be 0.5 to 3 milligrams per liter of total nitrogen. The current levels seen are about 5.9 milligrams per liter in Reach I, from the Bay upstream to Jeffery Road, and 15 milligrams per liter in Reach II, from Jeffrey Road to the headwaters.

The current standard is 13 milligrams per liter total inorganic nitrogen in Reach I and 5 milligrams per liter in Reach II. Total inorganic nitrogen is a subset of total nitrogen. The impact of these potential changes of water quality objectives would be substantial and would have an impact on our compliance activities and resulting costs.

Mr. Swan asked what is driving these changes. Ms. Skorpanich replied that it is based on the perception that the current standards are not protective enough and that there continue to be negative impacts to the ecosystem of the Bay.

Mr. Swan stated that the upper reaches should be irrelevant if met standards downstream.

Ms. Carr added she hoped that the nitrogen issues can be addressed through the Nitrogen and Selenium Management Program, which has been a collaborative effort for the last four years. A meeting is scheduled for December 1, 2008, so that work on NSMP can be integrated with any revisions to the Nutrient TMDL and the water quality objective.

Selenium TMDL

Ms. Carr provided an update on the selenium TMDL. The TMDL target will be based on site specific objectives, which are currently under development. A CEQA scoping meeting is being held on November 20 for the selenium TMDL and site specific objective for selenium. The anticipated schedule is a Regional Board workshop in May 2009 with final adoption in October 2009.

Organochlorines TMDL Independent Advisory Panel

Ms. Carr provided an update on the Organochlorine TMDL independent advisory panel. Panel selection has been completed and will be convened shortly to look at the TMDL and the appropriateness of the targets. The next Toxicity Reduction and Investigation Program meeting will be on December 2.

Mr. McKenney noted as follow up to the discussion on the relationship between the nitrogen TMDL and the NSMP that the NSMP participants are not happy with Regional Board staff moving ahead on a Nutrient TMDL update separate from the overall, integrated NSMP effort. Ms. Skorpanich shared the concern and noted that there is an aggressive schedule planned to adopt a Selenium TMDL before the current Waste Discharge Requirement order expires and needs to be a priority for work efforts for the next year. The nitrogen re-assessment would take valuable time away from this schedule.

Agenda Item 8 – Next Meeting Date

Meetings for 2009 were scheduled as follows:

Wednesday, February 18, 2009 - Boardroom of the Irvine Ranch Water District
Wednesday, May 6, 2009 - Boardroom of the Irvine Ranch Water District
Wednesday, August 19, 2009 - Boardroom of the Irvine Ranch Water District
Wednesday, November 18, 2009 - Boardroom of the Irvine Ranch Water District

Motion: Approve calendar
First/Second Councilwoman Gardiner/Councilman Kreutzen
Outcome: Approved

Agenda Item 9 – Executive Committee Member Comments

Mr. Tamaribuchi announced that this would be his last meeting as a Committee member due to his retirement. He will still be doing some work as a consultant.

Supervisor Moorlach noted that he was able to give a proclamation to John Withers at a recent LAFCO meeting, recognizing his years of contribution to the Executive Committee.

Agenda Item 10 – Public comments and general comments

No comments from the public.

Agenda Item 11 – Adjourn

The meeting was adjourned at 5:10 p.m