

NEWPORT BAY WATERSHED EXECUTIVE COMMITTEE
Meeting Minutes

Date and Location: February 18, 2009 – 3:10 p.m. - 4:58 p.m.
Rancho Santiago Community College District Board Room
2323 N. Broadway, Santa Ana, CA 92706

Participants: Hon. John Moorlach, County of Orange Board of Supervisors
Hon. Kathryn McCullough, City of Lake Forest
Hon. Nancy Gardner, City of Newport Beach
Dr. Steven Choi, City of Irvine
Mr. Joseph Edwards, The Irvine Company
Mr. Peer Swan, Irvine Ranch Water District
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
Marilyn Thoms, County of Orange
Kari Schumaker, County of Orange
Susan Brodeur, County of Orange
Karen Cowan, County of Orange

Attendees: Dennis Baker, Newport Bay Naturalists and Friends
Rick Francis, Deputy Chief of Staff to Supervisor Moorlach
Irwin Haydock, Orange County resident
Mike Loving, City of Irvine
Roger Mallett, Newport Bay Naturalists and Friends
Larry McKenney, RBF (for Lennar)
Joe Parco, City of Santa Ana
Bob Stein, City of Newport Beach
Mark Tettermer, Irvine Ranch Water District
Alex Waite, City of Tustin
Bob Woodings, City of Lake Forest
Emily Jackson, OC Waste and Recycling
Lyn McAfee, Nature Reserve of OC
Tim Serlet, City of Tustin
Marsha Westropp, Orange County Water District
Sat Tamaribuchi, Consultant
Dean Kirk, The Irvine Company
Jack Keating, Newport Bay Naturalists and Friends
Darren Haver, UC Cooperative Extension

Agenda Item 1 – Welcome and Introductions

The meeting was called to order by the Executive Committee Chair, Supervisor John Moorlach at 3:10 p.m., followed by self-introductions. Supervisor Moorlach welcomed two new attendees, Mr. Joseph Edwards from the Irvine Company and Dr. Steven Choi from the City of Irvine.

Agenda Item 2 – Approval of Minutes of the November 19, 2008 Meeting

The minutes of the November 19, 2008 meeting were presented to the Executive Committee. Ms. McCullough offered corrections on Item 5b page 6 and asked that it be reworded and to read as follows:

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.

Motion: Approve minutes with corrections
First/Second: Ms. Gardner/Ms. McCullough
Abstained: Dr. Choi and Mr. Edwards
Outcome: Approved

Agenda Item 3 – Governance and Structure Update

Agenda Item 3a – Third Amendment and Full Restatement of the Cooperative Agreement

Ms. Mary Anne Skorpanich 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 and Selenium Management Program, a number of other TMDLs and emerging water quality issues;
- Invite Santa Ana and Costa Mesa to participate on the Executive and Management committees;
- 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;
- 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;
- Clearly state the purpose of the Executive Committee; and

- Restate the obligations in the original agreement for the maintenance of the Sediment Control Plan.

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

- Added goals and desired outcomes from previous planning work that had been done in the watershed to the Purpose section;
- Reinserted elements of the original 1983 agreement related to the Sediment Control Plan 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 to agricultural and construction land management practices; and
- Added 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 the Executive Committee asked for a red-line copy to show changes. The redline version illustrates the changes between the 1999 version with amendments and the present updated agreement.

Mr. Swan asked about the approval process and the result should any individual member organization fail to adopt the amended agreement. Ms. Skorpanich identified the approval steps are approval by the Executive Committee to be followed by each member organization's approval. If one or more member organization failed to execute the agreement, the current agreement would stay in effect.

Supervisor Moorlach requested that a final version without strike outs be provided to the Management committee.

Ms. Birss shared that, due to staffing issues, CA Department of Fish and Game may not be able to have a representative at all meetings. This will not affect their commitment to the agreement.

Motion: Approve Agreement and take back to respective bodies for adoption
First/Second Mr. Swan/Ms. Gardner
Outcome: Approved

Action Item: Staff to finalize signature pages and distribute agreement

Dr. Choi asked what financial commitments the agreement contained. Ms. Skorpanich responded that the cooperative agreement itself does not have a financial commitment, but rather sets out a governance and the decision making process for the committee. This agreement forms the partnership for all to work together on issues in the watershed. Funding is handled through separate implementation agreements executed by the partners.

Agenda Item 3b – New slate of At-Large Members for Newport Bay Watershed Management Committee

Staff included a list of prior Management Committee members in the agenda package, including:

- County of Orange/Orange County Flood Control District
- City of Irvine
- City of Lake Forest
- City of Newport Beach
- City of Tustin
- Irvine Ranch Water District
- Santa Ana Regional Water Quality Control Board
- California Department of Fish and Game
- The Irvine Company
- Corps of Engineers
- California Coastal Conservancy
- Environmental Protection Agency
- Farm Bureau through the UC Cooperative Extension
- Environmental Representative

Ms. Skorpanich announced that the Management Committee had not been meeting separately from the Stakeholder Committee in the last few years, but there is sufficient need for it to be reactivated. The Management Committee is comprised of senior staff member who carry out the work directed by the Executive Committee. The Executive Committee is being asked to provide direction on the process of soliciting a new Environmental Representative.

Mr. Edwards asked who had served in the capacity most recently, and how that person was chosen. Mr. Chris Crompton, County of Orange, responded that in the past the Executive Committee asked staff to open up a nomination period for a specified amount of time and then compile a list of qualified nominees for the committee to consider. The Executive Committee then made a decision from the list of nominations. Jack Skinner was selected as the Environmental Representative. Jack Skinner later resigned and Jack Keating, named alternate, last served in that role.

Dr. Choi asked why we seeking an Environmental Representative on the committee. Ms. Skorpanich responded that members of the environmental community were very active stakeholders in the watershed and played an important role in the crafting solutions for the watershed. They partner with us in providing education and outreach and play a very big role in this watershed.

Dr. Choi asked who staff would recommend for the position. Ms. Skorpanich answered that staff had no preferred agency or individual and but could solicit nominees for the Executive Committee's selection. She also shared the names of the other organizations

who have participated in the Stakeholder Committee and other activities. Dr. Choi asked staff to send out a letter inviting environmental members to join the committee.

Ms. Gardner asked why Dr. Skinner had resigned. She remembered that he had been frustrated and that if the position wasn't working that perhaps we should look at redefining the role. Staff shared that they understood that he had been frustrated with the process and that in his resignation letter he also mentioned that he had an increased commitment to his volunteer activities in the medical field.

Mr. Swan shared that the Management Committee is looking for one representative and that some of the non-governmental agencies that could fill the role include Surfrider Foundation, Coastkeepers, Friends of the Bay, Audubon, Friends of Harbor Beaches and Parks, Newport Bay Naturalists and Friends, and Serrano Creek Conservancy.

Ms. Gardner requested that we follow the same procedure.

Ms. McCullough requested that staff compile a list of interested parties and that the Executive Committee consider naming an alternate as well.

Action Item: Provide Executive Committee with list of interested parties.

Supervisor Moorlach asked how involved the Farm Bureau had been in the Management Committee. Ms. Skorpanich answered that when the committee was active that they were very involved via representatives from the U.C. Cooperative Extension office.

Mr. Edwards asked if the cities of Santa Ana and Costa Mesa would be asked to participate. Ms. Skorpanich answered that one of the specific intents of the updated Cooperative Agreement is to reinvigorate the effort to invite new members. She added that the committee may want to go ahead and extend the invitation to the cities to join the Management Committee. Ms. McCullough commented that she had spoken with representatives from both cities and that there was a concern by both parties regarding the financial commitment. Perhaps asking them to join the Management Committee first would encourage them to join the Executive Committee.

Motion: *Approve slate of at large members*
First/Second: *Mr. Edwards/Ms. Gardner*
Outcome: *Approved*

Agenda Item 4 – Continued and Referred to Newport Bay Management Committee

Agenda Item 5a – Serrano Creek Restoration and Upper Newport Bay Ecosystem Restoration Project

Ms. Susan Brodeur provided an update on the Serrano Creek restoration. She discussed the USEPA 319(h) grant that was submitted recently to the State Water Resources Control Board for \$770,000 for restoration of Reach 2, with a local match requirement of 25 percent. The County expects to hear back regarding the grant by the end of April. The next step for Serrano Creek is to develop a local funding arrangement between the parties.

Ms. Brodeur also provided the status of the Upper Newport Bay Ecosystem Restoration Project that is currently under construction. She stated that the \$2 million from the United States Army Corps of Engineers FY09 Continuing Resolution Authority that will allow construction to continue through May 2009. The Wildlife Conservation Board approved a grant for \$2 million on November 20, 2008, but those funds were frozen as part of the state budget crisis. New cost estimate for the project is \$45.8 million, which means that both federal and local cost shares will increase.

The Corps will be receiving \$2 billion under the economic stimulus program, and this project is one of its priority projects, making us hopeful that the project will be fully funded.

Agenda Item 5b – Nitrogen and Selenium Management Program (NSMP) Update

Karen Cowan provided an update on the NSMP. A Cooperative Watershed Program is in development and will form the basis for consideration of a new funding agreement to be developed in 2009-2010.

The NSMP Working Group is currently working with the Regional Board to develop and gain approval of a Total Maximum Daily Load (TMDL) for selenium for the Newport Bay watershed, since current discharge authorizations will cease at the end of 2009. A site-specific objective for selenium in the Newport Bay Watershed is also under development in recognition of the fact that concentrations in the water column do not appear to result in ecological effect found in other watersheds. An implementation plan will incorporate the Best Management Practices Strategic Plan and Cooperative Watershed Program. The Regional Board plans to hold a workshop on the TMDL in May 2009 and adopt the Basin Plan Amendment in October 2009.

Agenda Item 5c - Roadmap for Updating the Central Orange County Integrated Regional and Coastal Watershed Management Plan (IRWMP)

Ms. Skorpanich provided a recap of last meeting's presentation on IRWMP planning in the region, and discussed the County's roadmap for preparing the plan.

Following Ms. Skorpanich recap Bob Stein, City of Newport Beach staff, added that the Phase II Plan prepared by the City of Newport Beach did not discuss the Region Acceptance Process (RAP). He feels that the Road Map does not discuss the difference between our region and the SAWPA region. He does not think that the Road Map is complete and warrants more discussion.

Ms. Skorpanich responded that during the Executive Committee meeting in November the Executive Committee directed staff to undertake completing an application for the Region Acceptance Process. County staff is moving forward keeping both Proposition 84 options viable, that is competing for funds as part of SAWPA's One-Water-One-Watershed plan and approval as our own region. County staff has held two workshops with stakeholders and weekly meetings with a Steering Committee to refine prioritizing strategies and other elements of our plan. County staff feels that there is consensus from the group as a whole and that there was adequate representation at those workshops to come to the conclusions that we did on modifications to the priority strategies.

Ms. Gardner asked if we were sacrificing anything by following dual paths and at what point must we decide which option to exercise go. Ms. Skorpanich believes a final decision will be need in May 2009 after the State completes its Region Acceptance Process and before grant applications are due.

Ms. McCullough stated that we are preparing the documentation for both options. She mentioned that we had made a commitment to always have someone at the SAWPA Steering Committee meetings in order to make sure that our interests are shared.

Mr. Swan shared that there is no time to go back and reinvent the roadmap and that staff had answered all questions and that we will go forward with the current plan.

Motion: Receive and file roadmap

First/Second: Mr. Swan/Dr. Choi

Outcome: Approved

Agenda Item 5d - Region Acceptance Process Update for Proposition 84 Grant Funding Eligibility

Ms. Skorpanich provided an overview of the IRWMP submittal and acceptance process. The State is expected to conduct its Region Acceptance Process in May 2009, with results announced in June, 2009.

Mr. Swan highlighted problems and contradictions still existing in the One Water-One Watershed (OWOW) governance document included in the agenda package. It still appears that the SAWPA Commission is the decision making body. Staff noted that the OWOW Steering Committee had voted to exclude the SAWPA Commission's role in revising recommendations made by its Steering Committee; the governance document downloaded from the SAWPA website and included in the agenda packet does not appear to include this change and so may not be the most current version.

Action Item: Staff to contact SAWPA for most current document and email Executive Committee if different from version included in the packet.

The Executive Committee proceeded to take comments from the public.

Dennis Baker, resident of Newport Beach, announced that a letter was sent to the Executive Committee on behalf of Newport Bay Naturalists and Friends recommending Central Orange County compete on its own with its own plan. He expressed his view of how well our region satisfied the State's qualifications for the Region Acceptance Process. Mr. Baker also recommended a more strategic outreach effort and emphasized how important it was for all the cities in the watershed to be active and more aggressive in expressing themselves to the Department of Water Resources.

Larry McKenney said he was at the SAWPA Steering Committee meeting and that the paragraph Peer referenced, the focal point of the discussion, that the SAWPA Commission would be the ultimate decision maker, had not been changed. He discussed his concerns with the SAWPA governance document, and suggested that Supervisor Moorlach and Campbell need to meet to discuss the application process and ensure that they are communicating adequately.

Mr. Swan pointed out that if we are not successful at becoming our own region, we will still be part of the Santa Ana region and will be included in the SAWPA process. The downside is that we would not have any control of the process.

Roger Mallett, Newport Beach, expressed concerns of mixed messages being sent to the State Department of Water Resources with choosing these two paths and asked how the process was done in the past. Mr. Swan answered the question by saying that last time projects were selected by SAWPA alone. The process last time was unsatisfactory and so the current strategy is designed to prevent that same thing from happening.

Ms. Gardner said that we need to stop equivocating and make a decision on which path we are going to take. If we are going on our own we need to start working harder on our individual application. She feels they would like to be their own individual region and also wanted to know who else felt the same way.

Supervisor Moorlach asked Ms. Gardner if she would like the committee to take a straw vote. Ms. Gardner said yes and phrased the question: if you had a preference would you rather have us be our own region or part of the SAWPA region? Mr. Swan, Ms. Gardner, Ms. McCullough, and Dr. Choi indicated a preference for competing as our own region. As a new member Mr. Edwards preferred to defer until the next meeting. Ms. Birss declined to state a preference among local entities as a representative of a state agency. Supervisor Moorlach stated that he would discuss the matter with Supervisor Campbell.

Irwin Haydock pointed out that the region has a long track record of working together and has made a big investment in the Phase I and II of its Integrated Regional Water Management Plan. The watershed is way ahead of the game and knows best how to manage the watershed. Ms. Skorpanich shared that there were other entities in the same funding area that have prepared their own Integrated Plans and are deliberating over whether to engage in the Region Acceptance Process themselves.

Ms. Gardner requested that an ad hoc committee be formed to start a letter writing campaign and to identify decision makers that need to be contacted. She volunteered to serve on the committee. Ms. McCullough agreed and requested that staff prepare an outreach plan now and email it well before the next meeting.

Action Item: Prepare Outreach Plan and email to committee.

Mr. Swan said that he is concerned that we are getting ahead of the schedule and that he does not want to see us be penalized for already doing many of the things that other regions are just now starting to do.

Agenda Item 6 – Next Meeting Date

Wednesday, May 6, 2009 - Boardroom of the Irvine Ranch Water District, 2:30pm

Agenda Item 7 – Executive Committee Member Comments

No further comments

Agenda Item 8 – Public comments and general comments

Dennis Baker stated that is important to bring in the cities of Santa Ana, Costa Mesa, and Orange as cost-share partners. He said that Santa Ana, Costa Mesa, and Orange contribute greatly to Newport Bay impacts and asked if their city councils were aware that there will be a cost impact.

Agenda Item 9 – Adjourn

The meeting was adjourned at 4:58 p.m.