

AGENDA
REGULAR MEETINGS
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, December 7, 2010

C. BUSINESS BEFORE THE BOARD

9. BOARD COMMITTEE REPORTS

c. Legislative (9.30.10) (Radke)

The Legislative Committee met at District headquarters on Thursday, September 30, 2010.

Present: Directors: Doug Siden, Ayn Wieskamp, John Sutter
Staff: Pat O'Brien, Erich Pfuehler, Tim Anderson, Bob Doyle, Sharon Corkin,
Steve Myli, Carol Victor
Consultants: Doug Houston and Laura Cotrell, The Houston Group
Public: N/A

I. STATE LEGISLATION/ISSUES UPDATE

A. NEW

a. Proposed Legislation

AB 1987 (Ma) – Public Retirement: Final Compensation: Computation: Retirees.

Advocate Doug Houston reported a series of bills have flooded the legislature during the last couple of months in response to the City of Bell scandal. This particular bill has been sent to the Governor. The bill tries to prevent retirement pay spiking by setting up an ongoing audit process. There is a provision in the bill to require 180 days separation between when a public employee retires and when they could sign a consulting contract with their former employer. General Manager Pat O'Brien stated this provision was problematic for succession planning and continuity; a retired employee can be invaluable to a new employee's transition into a position. Legislative Affairs Manager Erich Pfuehler commented if the bill is signed the 180 day requirement would go into effect January 2012 and could impact future transitions at the District. Pfuehler also stated the California Special District Association (CSDA) lobbied to remove the 180 day provision, but it was a non-starter with the author. CSDA, along with the California State Association of Counties, oppose the bill. It is supported by the California Federation of Teachers, Treasurer Bill Lockyer and Controller John Chiang. Houston added if it is not signed by the Governor today, it will be dead for this year.

Houston talked about the two other Bell induced bills still pending with the Governor: AB 827 and AB 194. AB 827 would prohibit automatic salary increases beyond cost-of-living adjustments for government employees. AB 194 would limit the pay rate for public

pensions at 125% of the Governor's salary. Houston mentioned these public employee reforms are being discussed within the context of the Governor's pension reform demands.

Pfuehler stated some pension reform is likely to be included in the budget. Disclosure of public salaries and limits on retirement compensation seem likely. The State Controller is already requiring cities and counties to start uploading salaries for all employees onto the Controller's website. This requirement will likely be extended to special districts. Pfuehler wondered how much staff time will be required to monitor and keep the information updated.

Director Sutter asked if it would only be salaries posted, or if pension and benefit information is included as well. Pfuehler commented he wouldn't be surprised if all information will be requested including contracts with outside vendors and/or consultants.

The Committee voted unanimously to WATCH.

B. ISSUES

a. Public Agency Disclosure Efforts

In response to the City of Bell scandal, lawmakers have crafted a six-bill package to target excessive pay. Following are the six bills:

AB 1955: Require charter cities, such as Bell, to be penalized by the state if they pay city council salaries higher than allowed in general-law cities. Excess pay would be slapped with a 50% personal income tax and the city's redevelopment agency would be restricted from approving new plans or issuing new debt.

AB 827: Target salaries of unelected local government officials by prohibiting automatic salary increases and banning severance payments of greater than 12 months' salary for these employees.

AB 2064: Require the Legislature to post on its website the salaries of its elected members and employees. The bill also requires cities, counties, special districts, school districts and joint powers authorities to post the salaries of their elected officials and key employees.

AB 192: Require cities to pay for any higher pension payments that stem from luring a municipal employee away from another city by offering exorbitant pay.

SB 501: Require officials of cities, counties, special districts, school districts and joint powers agencies to file an annual statement that discloses their compensation to the public.

AB 194: Cap the maximum salary or compensation that can be used to determine pension benefits for high-paid public employees hired after Jan. 1, 2011.

Pfuehler speculated there is bi-partisan support for some of these reform efforts. Schwarzenegger, however, has stated the Legislature has not set its sights high enough – he wants comprehensive changes that reduce future pension payments and require employees to contribute more.

b. State Budget Update

Houston reported with the persistent \$19 billion deficit and no deal in place, State Controller John Chiang will begin issuing IOUs the beginning of October. Failure to enact a budget impacts the state's ability to pay bills, but there are also political implications. Will legislators want to vote for an ugly budget deal this close to the November election? Houston speculated all sides seem to be locked into dragging this out for a long time and there may not be a budget until after the election. The lack of urgency is somewhat troubling and may be a sign that California legislators are willing to live with a permanent, systemic deficit.

c. State Parks Access Pass Hearing Update

Houston reported about the August 10th informational hearing on the State Parks Access Pass, Proposition 21. Pfuehler and AGM Bob Doyle attended and Doyle testified. At the hearing, they learned the legislature does have some discretion about how the money could be allocated, as long as it stays within park improvements. This suggests the District, along with other agencies which operate state parks, should have some leverage in the state parks budget allocation process. The ballot measure sets up a Trust Fund to protect revenues from being diverted to the General Fund, but the legislature does have oversight responsibility. In her testimony, State Parks Director Ruth Coleman clearly stated the money will be spent “how you the legislature decides.” Senator Fran Pavely asked a representative from the Legislative Analyst's Office (LAO) who will operate the Fund. Caroline Godkin from the LAO's office responded the legislature has oversight and the proposition establishes a citizen's oversight committee. Assembly Member Juan Arambula raised the issue of equity. He represents a heavily Latino district in the Fresno area which contains no state parks. He expressed his interest in developing a plan to ensure underserved communities benefit from the Fund particularly since they will be contributing through their VLFs. Elizabeth Goldstein, President of the California State Parks Association, stated that, “state parks no matter who operates them are better off” by enacting this proposition. Doyle submitted comments and Assembly Member Jared Huffman thanked him for the District's work in the East Bay.

O'Brien stated the District worked closely with The Houston Group and LA County on this issue. The District advocated to be reimbursed for the operation of Del Valle, Crown Beach and Eastshore. The ballot measure does include a 5% set aside to compensate for lost gate fees at Del Valle and Crown Beach, but will likely have no benefit for Eastshore. O'Brien stated there should be a fair distribution of funds and parks like Eastshore should not be treated any differently than other state parks. District staff has discussed this issue with State Senator Loni Hancock and Assembly Member Nancy Skinner both of whom have a strong interest in Eastshore.

d. Oakley Power Plant Bill (SB 1398) review

Houston discussed SB 1398 authored by Senator Mark DeSaulnier on behalf of the City of Oakley. The California Energy Commission is considering a proposal to construct a 600 megawatt power plant to be located within a redevelopment project area in Oakley. The bill seeks to capture property tax revenue and retain it within the redevelopment agency. None of the revenue would pass through to agencies like the District. A couple of agencies were able to negotiate exemptions – schools and fire. The District is currently generating some revenue from this piece of property, but the bill would divert current base revenue from the District. The District's projected loss would be \$190,000 per year in base property taxes. The District is concerned this bill would set a very negative precedent. The District has asked the author to ensure continued pass through of this base revenue to the District in perpetuity. While the District was able to secure some beneficial language as an amendment to SB 1398, the bill did not make it to the Governor's desk.

e. Review Ballot Measures

Pfuehler cited the different positions taken by various newspapers on the ballot measures. The Chronicle opposed Proposition 19 (Legalization of Marijuana), Proposition 21 (State Parks Access Pass) and Proposition 22 (Protecting Local Government Revenues), and they did a non-endorsement in Senator Barbara Boxer's race.

Proposition 18: Safe, Clean and Reliable Drinking Water Supply Act of 2010 – while the water bond qualified for the ballot it was pulled.

Proposition 19: Changes California Law to Legalize Marijuana and Allow it to be Regulated and Taxed – would allow people 21 years or older to possess, cultivate or transport marijuana for personal use. It would tax it to benefit state and local government revenues.

Proposition 20: Redistricting of Congressional Districts – Pfuehler commented he found it interesting that the Chronicle supports allowing a citizens commission to redraw Congressional district lines despite the fact that their hometown Representative, Nancy Pelosi, is the Speaker of the House and opposes the measure.

Proposition 21: Establishes \$18 annual vehicle license surcharge to help fund state parks and wildlife programs, and grants free admission to all state parks to surcharged vehicles – this measure was discussed earlier in the meeting. If passed, it would raise about \$500 million for state parks and wildlife programs which would address the deferred maintenance backlog and provide a functional general operating budget.

Proposition 22: Prohibits the state from taking funds used for transportation or local government projects and services – the state would no longer be able to shift, take, borrow or restrict the use of local government tax revenue. Often referred to as the "son of Prop. 1A," this proposition would provide more assurance to local governments that their revenues will be protected. Director Sutter commented the major issue for Proposition 22 is the protection of local government agencies. Houston said among the

strongest supporters of Prop. 22 are transit authorities. They sponsored a law suit a couple of years back when spillover revenues from transit districts were redirected to the general fund.

Proposition 23: Suspends air pollution control laws requiring major polluters to report and reduce greenhouse gas emissions that cause global warming until unemployment drops below specified level for a full year – this essentially suspends AB 32, the ground-breaking climate change law passed in 2006.

Proposition 24: Repeals recent legislation that would allow businesses to carry back losses, share tax credits and use a sales-based income calculation to lower taxable income – this would repeal the business tax breaks enacted as part of last year’s budget compromise.

Proposition 25: Changes legislative vote requirement to pass a budget from two-thirds to simple majority, but retains the two-thirds vote requirement for taxes. Pfuehler reported polls indicate this measure will pass. Sutter questioned the value of the proposition if taxes can’t be raised. Pfuehler said it could potentially help if Proposition 26 fails so the legislature could still adopt fees and things that aren’t technically taxes to generate some revenue for enacting a budget. Anything labeled an actual tax is a two-thirds vote right now, but if it’s a fee or a levee or something like that it’s not technically a tax. Prop. 26 would change that.

Proposition 26: Increases legislative vote requirement to two-thirds for state levies and charges. Imposes an additional requirement for voters to approve local levies and charges with limited exceptions.

Proposition 27: Eliminates State Commission on Redistricting. Consolidates authority for redistricting with elected representatives – this would actually eliminate the 14-member redistricting commission and allow the legislature to continue to draw new district lines. Houston predicted that Proposition 27 will fail.

2. FEDERAL LEGISLATION/ISSUES / ISSUES

A. NEW

a. PROPOSED LEGISLATION N/A

B. ISSUES

a. TIGER Grant Application Update

O’Brien reported the final decision on the TIGER II grant will be made and announced by U.S. Secretary of Transportation Ray LaHood on October 15, 2010. O’Brien praised District staff’s efforts in putting together a tremendous grant application. He thanked Erich Pfuehler, Bob Doyle, Jim Townsend and Susan Canale for their hard work.

Advocacy efforts are being made to directly contact Secretary LaHood. Reps. George Miller, Barbara Lee and John Garamendi have called Secretary LaHood personally to express their support for the District’s application. O’Brien commented the delegation has grabbed a hold of this green transportation concept and really like it. The District has

been building paved trail networks since the 1970s. The award of the TIGER II grant would complete a network which would be the largest urban non-motorized transportation system in the U.S., and it would meet President Obama's goal for health and fitness.

b. Water Resources and Development Act (WRDA) – Miller/Knox request

Pfuehler stated this is the Army Corps project bill. Most of the bill traditionally authorizes money for levees and channeling creeks. It is up for reauthorization this year. It doesn't look like it is actually going to pass, but on the House side Rep. Miller was able to include \$5 million specifically for "comprehensive shoreline restoration" at Miller Knox.

Director Sutter asked about the status of getting approval from the Army Corps for the Bay Trail near the Tidewater staging area. The jurisdiction for the channel between Oakland and Alameda belongs to the Army Corps. Sutter commented the Corps would like the City of Oakland to take ownership and maintenance responsibility for the channel. Doyle stated the local Army Corps has placed a moratorium and will not approve any encroachments or allow any new permits for projects such as building a pier. The District discussed a possible exemption with the Corps for the purposes of completing the Bay Trail, but so far the Corps has maintained the moratorium. The Corps may be using the moratorium as leverage to get a local authority to take ownership of the channel. The issue of jurisdiction of the channel isn't just maintenance, but the liability for toxins that have been dumped in the estuary over the last 100 years.

Director Sutter asked if there was a way to tie this issue into the Water Resources and Development Act and get Congressional support. Pfuehler explained the District did make a WRDA request of Rep. Barbara Lee's office, as did the City of Oakland, to require the Corps to allow the Bay Trail project from Tidewater to the High Street Bridge to move forward. Neither the District's or City's request made it into the draft bill, but Pfuehler suggested the District submit this request again next year. There should be a public use exception to grant an easement for the Bay Trail.

c. Land and Water Conservation Fund Update

Pfuehler reported full funding for the Land and Water Conservation Fund was included in legislation drafted as a response to the oil spill in the Gulf. The bill is actually called the Clean Energy Jobs and Oil Company Accountability Act. Unfortunately, Congress couldn't get a vote before they adjourned. South Carolina Senator Jim DeMint blocked any effort to address either side of this equation, but it is still in play for a lame duck session.

3. PUBLIC COMMENTS

4. STATUS OF RECOMMENDATIONS

Pfuehler reported on three bills. AB 979 (Berryhill) the hunting and fishing in public spaces bill was vetoed. Assistant District Counsel Carol Victor described the bill and commented it did include amendments which addressed the District's concerns. There

seemed to be a lot of support for the bill. AB 979 basically said local entities could not adopt ordinances or regulations which affect hunting or fishing unless there were public health and/or safety reasons to do so. The District was able to carve in an exception of, 'except for the lands they own or manage.' The Governor vetoed the bill.

SB 1205 (Corbett) the Bay Area Disaster Recovery Planning Council Act was vetoed. This bill would have created a Bay Area Authority in case of a natural disaster. SB 1205 was supported by ABAG.

Pfuehler reported Federal legislation, H. Res. 996 (Fudge), expressing support for designation of September as National Childhood Obesity Awareness Month passed.

Houston reported that AB 1929 (Hall) which relates to invasive aquatic species such as zebra and quagga mussels, has been chaptered. This bill tries to immunize local agencies from liability associated with inadvertent introduction of zebra or quagga mussels into waterways.