

AGENDA
REGULAR MEETINGS
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, April 5, 2011

C. BUSINESS BEFORE THE BOARD

7. BOARD COMMITTEE REPORTS

b. Legislative (11.19.10) (Radke)

The Legislative Committee met at District headquarters on Friday, November 19, 2010.

Present: Directors: Ted Radke, Ayn Wieskamp, John Sutter
Staff: Erich Pfuehler, Bob Doyle, Dave Collins, Jeff Rasmussen, Jim
Townsend, Carol Victor
Consultants: Doug Houston, The Houston Group
Public: N/A

I. STATE LEGISLATION/ISSUES UPDATE

A. NEW

a. Proposed Legislation

N/A – the legislature is adjourned.

b. The Legislative Committee discussed State Controller John Chiang's requirement for special districts to report wage and compensation information to his office by June 2011. Legislative Affairs Manager Erich Pfuehler stated the District's Finance Department is currently working with the Controller's office to develop a reporting system.

B. ISSUES

a. Election Results

The Legislative Committee discussed the outcome of the election and the status of outstanding ballots for the Kamala Harris/Steve Cooley Attorney General election. Legislative Advocate Doug Houston said it is likely Harris will win as the outstanding ballots are coming from areas where she has strong support. If current trends hold true, she should win by more than 50,000 votes. Board Member Ayn Wieskamp stated it was interesting that Harris had strong support in Los Angeles.

Board Member Ted Radke commented many of the late ballots were the result of a push by Democrats to 'get out the vote,' and it made a difference in the outcome of some of the races. Houston commented there was a considerable amount of money invested in 'get out the vote' efforts, and it seemed to make more of a

difference on the Congressional side. Wieskamp commented it helped Rep. Jerry McNerney's re-election and other Members of Congress.

There was discussion by the Committee about Jerry Brown and his role as governor. AGM Bob Doyle pointed out that Governor Jerry Brown made a very deep commitment to education, but it will be a challenge to work under the current budget constraints. Pfuehler commented that Governor Brown is notoriously frugal. His vast knowledge of state and local government could impact the District.

Doyle stated that GM Pat O'Brien cautioned about Jerry Brown knowing everything about state government. If he wants to figure out a way to grab money he knows how to do it. Jerry Brown knows how government runs and he can go right in and 'pick axe'. The District needs to watch carefully about the direction he takes in addressing the budget.

Pfuehler commented O'Brien viewed the outcome of the propositions as very conservative. California seemed in alignment with the Tea Party on the propositions, even though it voted for a liberal Senator and Governor. Voters were disinclined to send any more money to Sacramento, which is aligned with the sentiment of the Tea Party movement across the country.

Radke mentioned Tom Torlakson's election to Superintendent of Public Instruction and wondered if it would be possible for him to find funding for the Delta Science Center. The Committee members discussed the possibility of the water bond as a potential funding source for the center.

Grants Manager Jeff Rasmussen reported the recent site visit he hosted with State Parks regarding Prop. 84 money for the Delta Science Center went well. The District has submitted a strong grant application for the Delta Science Center.

The Committee discussed Proposition 21, the Park Pass Initiative, and why it failed. Doyle felt the \$18 fee was too high and O'Brien's suggestion of \$8 would have been more favorable to voters. The Board agreed that op-eds against the measure in some of the more liberal newspapers negatively impacted the vote. Doyle commented that Los Angeles County Parks did not support Proposition 21 which also may of had an impact on the proposition's failure.

Assistant District Counsel Carol Victor reported on Proposition 26 and indicated it was not likely to impact direct fees for service like the District sometimes charges. She added this measure is likely to face a number of legal challenges.

Pfuehler reported about the redistricting commission. He stated Congressional districts in our region may get condensed as most population growth was in the Central Valley. For example, Rep. Jerry McNerney may get moved completely to San Joaquin County. There is a question about the districts of Rep. Miller and Rep. Garamendi and whether there will be pressure on Rep. Stark to retire.

Pfuehler commented in McNerney's case, a full San Joaquin County district could help him, as some of the more Democratic precincts in Stockton were carved out for former Rep. Gary Condit which is now Rep. Dennis Cardoza's district. If those precincts were included in Congressional District II it would be a more Democratic seat.

Board Member John Sutter discussed absentee ballots and questioned if they would make a difference in the outcome if they were challenged. Pfuehler pointed out they were making a difference in Rep. Jerry McNerney's count.

2. FEDERAL LEGISLATION/ISSUES / ISSUES

A. NEW

a. PROPOSED LEGISLATION

Pfuehler reported about S. 3927 (Feinstein) and H.R. 6329 (Garamendi) Bills to Establish the Sacramento-San Joaquin Delta National Heritage Area. These bills would establish the Sacramento-San Joaquin Delta National Heritage Area to protect and promote the cultural, historical and natural assets of the region. The legislation would authorize \$20 million (\$2 million in any fiscal year) to the California Delta Protection Commission to implement the National Heritage Area, with up to a 50% Federal cost-share for improvement projects. The funds would not be for land acquisition, but for the purposes of planning and interpreting the heritage of the region. The National Park Service would administer the program. Pfuehler noted the possible comparison to the C&O Canal National Historical Park corridor from Washington, D.C. to Cumberland, Maryland. Areas along the canal, like Harpers Ferry, have benefitted as patrons leave the canal trail and spend time (and money) in towns which have protected their heritage. The heritage designation doesn't dictate what you do, but opens the possibility for planning money and helps "brand" the region. Pfuehler stated a possible heritage interpretive panel at Big Break could be helpful. Doyle reiterated the \$20 million is for planning concepts, interpretive panels about the history of the area, and not construction. Pfuehler reported when he met with Senator Feinstein's staff early in the process, they discussed folding the heritage concept into an appropriations bill. At that time, District staff was instrumental in ensuring the Carquinez Strait was included in the heritage area. Heritage designation could create more recreation and interpretation opportunities for the District, as well as possible partnerships with other engaged entities.

The Legislative Committee of the Board voted unanimously to support S. 3927 and H.R. 6329.

B. ISSUES

a. TIGER Grant

Doyle thanked staff for all their hard work on the TIGER II grant. He reported the District is now in the process of discussing the terms of the grant agreement with the Federal Highway Administration (FHWA). There are some Green Transportation projects which will not meet FHWA's criteria and will not have local

matching money. The District is in the process of rearranging priorities and levels of funding to maximize the grant.

AGM of Management Services Dave Collins asked for a recommendation from the Board Legislative Committee to move forward and revise the grant agreement. Collins outlined the project list the Board originally authorized for the TIGER II grant. While the District was awarded \$10.2 million, it was only 41% of what EBRPD requested.

At this point, the District is required to provide a revised project list to FHWA in order to sign a term sheet by the end of the year. By September 30, 2012, the District must have NEPA clearance, land tenure and construction plans with matching funds for each project. By September 30, 2017, construction needs to be complete.

Sutter asked how long the process with NEPA would take to complete. Regional Trails Manager Jim Townsend answered it could take anywhere between 18 months to five years which makes this a challenging criteria for the District. Doyle said the majority of these projects should not be too complicated, but will still have to get a Categorical Exclusion from Caltrans. Caltrans administers the NEPA program for California. Townsend met with the Deputy Director for Local Assistance and Caltrans indicated a willingness to be as cooperative as possible in this process. Caltrans is a very compartmentalized bureaucracy and the process will be cumbersome.

The project list for the TIGER program has been reduced from seven to five projects. Townsend explained the Union City Bay Trail project was eliminated because Alameda County Flood Control has not begun plans for the reconstruction of their levee system. The trail in this project will be on top of the levee system. Because land tenure has not been granted, the project has not been designed, nor has construction has begun, the District will not be able to meet the deadline date of 2012 to have the documentation complete for this project.

The second project to be eliminated was the Mokelumne Overcrossing which is a proposed overcrossing of the Highway 4 bypass on the Brentwood/Antioch border near Sand Creek Road. The Mokelumne Overcrossing is actually included in the environmental documents for the bypass as a mitigation measure. The State Route 4 Bypass Authority is required to construct this overcrossing because it severed two sections of the Mokelumne Trail. While the requirement is stated in their environmental document, there is no timeframe for completion. The State Route 4 Bypass Authority is not prepared to move forward with this project, as they do not have matching funds. If the District could provide total funding the State Route 4 Bypass Authority would consider doing the project, but given the TIGER II award is less than half of what was requested the District does not have enough funds to fully fund this project.

Townsend explained to the board the FHWA suggested the District provide them with a revised scope, schedule and budget based on the reduced amount of projects/funding. FHWA suggested the District consolidate the number of projects to keep the process less complicated.

The Board and staff discussed the criteria the District would use for the distribution of funds. The District is looking to maximize its flexibility while completing as many of the projects as possible.

Pfuehler commented there may be an effort at the Federal level to rescind money that's not spent even though it's already appropriated.

Doyle and the Board Legislative Committee thanked Peter Umhofer, Legislative Consultant for his hard work to help secure the TIGER II grant for the Park District.

The Legislative Committee of the Board voted unanimously to move forward and revise the grant agreement.

b. Army Corps Vegetation on Levees Policy and the Water Resources Development Act in 2011

Radke reported this issue was brought up at the Contra Costa County Park District Liaison Committee. The County showed an example of what the vegetation removal on their levees would look like. The County thought vegetation removal would actually destroy a number of their levees. Director John Sutter agreed and suggested that vegetation might actually strengthen levees.

Doyle reported the Army Corps developed new rules based on Hurricane Katrina to require local flood agencies to clear cut vegetation along levees even if it was planted for mitigation. The Corps adopted guidelines which create a "vegetation-free and root-free" buffer zone between vegetation and flood control levees. The Corps has extended their consideration of these final guidelines until the spring of 2011. If the guidelines remain largely similar to those issued in April of 2009, Contra Costa County would be required to remove trees along much of Wildcat Creek or face removal from the Corps disaster assistance program and any FEMA funds in the event of a disaster. County homeowners would also be required to have flood insurance. This would be a major and expensive undertaking for the County and its' residents. The District was asked to be helpful to the County. Pfuehler mentioned funding for levee maintenance is authorized by the Water Resources Development Act (WRDA). The District could support the County's effort to secure a variance through WRDA. The overall levee vegetation policy may also be debated in WRDA and potentially modified to consider each circumstance individually, but it is unlikely to be completely repealed.

c. Transportation bill

Pfuehler stated there probably won't be a lot of earmarks or spending this coming year at the Federal level. The District can (and should) try to secure authorization for projects in legislation like the transportation bill. Funds will be available someday and the District would be in better position to compete if its' projects are authorized. Traditionally, Federal transportation dollars are distributed by formula to the States and then to regional Metropolitan Transportation Organizations. Typically, the District gets boxed out of the process and does not end up in the mix to receive Federal funds; not just for construction of trails, but also for maintenance. Pfuehler commented the District paved trail network has been vindicated as a true transportation network by virtue of receiving the TIGER II grant. As such, there should be some mechanism for the District to receive Federal trail maintenance funding. Pfuehler will be working with Advocate Umhofer and the Congressional delegation to work on permanently authorizing a stream of money to maintain trails, or at least recognize the District's role as part of the overall regional transportation network.

3. ADVOCATE CONTRACTS / RENEWAL

A. The Houston Group

Doyle explained the Houston Group contract will be renewed for three years instead of the usual two years given the current budget crisis in Sacramento. Doyle stated it is a good idea to retain the Houston Group's support for three years. The contract amount would remain the same except with the addition of the CPI yearly increase.

B. Agricultural Resources

Pfuehler recommended the Board Legislative Committee renew the Agricultural Resources contract for one year and re-evaluate the contract when it expires.

C. Kanner and Associates

Pfuehler recommended the Board Legislative Committee renew the Kanner and Associates contract for one year and re-evaluate the contract when it expires.

The Legislative Committee of the Board voted unanimously to renew the advocate contracts.

4. PUBLIC COMMENTS – None.