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## **AGENDA** **BOARD LEGISLATIVE COMMITTEE**

**Friday, July 16, 2010**  
**12:45 p.m., Peralta Oaks Board Room**

The following agenda items are listed for Committee consideration. In accordance with the Board Operating Guidelines, no official action of the Board will be taken at this meeting; rather, the Committee's purpose shall be to review the listed items and to consider developing recommendations to the Board of Directors.

### AGENDA

<u>STATUS</u>	<u>TIME</u>	<u>ITEM</u>	<u>STAFF</u>
	12:45 p.m.	1. STATE LEGISLATION / ISSUES	
		A. NEW	O'Brien/Pfuehler
		a. Proposed Legislation N/A	
		B. ISSUES	O'Brien/Pfuehler
(I)		a. State Budget Update	
(D)		b. Qualified Ballot Measures	
		2. FEDERAL LEGISLATION / ISSUES	Pfuehler/O'Brien
		A. NEW	
		a. Proposed Legislation	
(R)		S. 3539 San Francisco Bay Restoration Act	
		B. ISSUES	Pfuehler/O'Brien
(I)		a. TIGER Grant Application Update	
(I)		b. Great Outdoors Initiative Update	
(I)		c. Land and Water Conservation Fund Update	
		3. PUBLIC COMMENTS	
		4. STATUS OF RECOMMENDATIONS	
		5. CORRESPONDENCE & ARTICLES	

(R) Recommendation for Future Board Consideration  
 (I) Information  
 (D) Discussion

Future 2010 Meetings:   August 20, 2010           November 19, 2010  
                                   September 17, 2010       December 17, 2010  
                                   October 15, 2010

Legislative Committee Members:  
 Ted Radke, Chair, Doug Siden, Ayn Wieskamp, John Sutter,  
 Alternate  
 Erich Pfuehler, Staff Coordinator

#### Board of Directors

Ted Radke President Ward 7	Doug Siden Vice-President Ward 4	Beverly Lane Treasurer Ward 6	Carol Severin Secretary Ward 3	John Sutter Ward 2	Whitney Dotson Ward 1	Ayn Wieskamp Ward 5	Pat O'Brien General Manager
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AGENDA  
REGULAR MEETINGS  
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, October 19, 2010

C. BUSINESS BEFORE THE BOARD

6. BOARD COMMITTEE REPORTS

b. Legislative (7.16.10) (Radke)

The Legislative Committee met at District headquarters on Friday, July 16, 2010.

Present: Directors: Ted Radke (Chair), Doug Siden, Ayn Wieskamp  
Staff: Pat O'Brien, Erich Pfuehler, Carol Victor, Jeff Rasmussen, Bob Doyle,  
Sharon Corkin  
Consultants: Doug Houston and Laura Cotrell, The Houston Group  
Public: Chelsea Calkins

I. STATE LEGISLATION/ISSUES UPDATE

A. NEW

a. Proposed Legislation N/A

Advocate Doug Houston briefly discussed SB 1398 (DeSaulnier) which pertains to the citing of a power plant in a redevelopment area of Oakley. The bill is moving forward. In order to secure public support for the power plant, the bill seeks to enable the redevelopment area to keep all of the property tax increases which would otherwise be allocated to the county, school districts and special districts. The redevelopment agency would pass through revenue to the schools and fire department. All other entities would not be entitled to future increases in property tax revenues and would see their existing base taken away.

General Manager Pat O'Brien commented this is a bad precedent. It would be worth negotiating to protect the District's base. If negotiations falter, the District may need to oppose the bill. The Committee agreed. Legislative Administrative Manager Erich Pfuehler pointed out that CSDA has officially opposed SB 1398.

Board Member Ted Radke asked about a separate issue regarding the California Department of Fish and Game and allowing the District to hold endowments. Pfuehler said Environmental Programs Manager Brad Olson went to testify at a Fish and Game hearing in the City of Folsom. AGM Bob Doyle stated there is a coalition opposed to Fish and Game's proposal. For now, the Fish and Game Commission has delayed making a decision. Houston suggested existing endowment agreements should be grandfathered. Doyle stated allowing public agencies to hold endowments would be appropriate. Fish and Game is considering a new policy based on the bankruptcy of a single nonprofit land trust. It is highly unlikely that public agencies will go bankrupt and therefore endowments held by

them would not be at risk. The bottom line is that Fish and Game does not have adequate staff to monitor endowments. Final decisions may need to wait until a new Governor is in place.

## B. ISSUES

### a. State Budget Update

The beginning of the fiscal year started on July 1st without any real negotiations toward resolving the \$19.1 billion budget deficit. Legislators and the Governor have seemingly felt little pressure to pass a budget quickly. Advocate Houston stated budget negotiations are stalled. It will take courage for someone to buck their core constituency and agree to a deal. \$19.1 billion is a sizeable deficit to bridge. The Democratic Caucus will be rolling out the Speaker's budget proposal soon. The Governor has proposed dismantling parts of the social safety net, including welfare and day care for 142,000 low-income children. The Administration is also insisting on pension reform as part of budget negotiations.

Senate Democrats have come together on a plan which includes proposals to create a new tax on oil production and roll back about \$2 billion in tax breaks for corporations set to go into effect this fiscal year. The proposal calls for a series of "one-time solutions" which is likely to include billions in new borrowing. For example, borrowing revenue generated from recycled bottles (California Redemption Value) for the general fund.

O'Brien asked if invoking Proposition 1A again was being discussed. Houston said it is conceivable the legislature could attempt to do so. Even if it would be subject to a legal challenge, the savings could be scored and the legal questions could take up to 18 months to decide. O'Brien stated he believed the legislature has the legal ability to take funds a second time under Prop. 1A.

Pfuehler mentioned CSDA is under the impression the legislature cannot legally invoke Prop. 1A because some agencies did not participate in the securitization program and therefore have not been paid back yet. There has also been some discussion about agencies which have large reserves, particularly water districts, being targeted by the legislature.

To date, there is no serious discussion about taking money from local governments or invoking Prop. 1A again. Senator Denise Moreno Ducheny (Chair of the Senate Budget Committee) has mentioned the "whole state – local relationship is messed up" and suggested dusting off old proposals. Others have talked more openly about devolving some state services to the county level, so the District needs to remain on guard.

### b. Qualified Ballot Measures

*Proposition 18: Safe, Clean and Reliable Drinking Water Supply Act of 2010* – While the water bond has qualified for the ballot it may be pulled. Houston said Proposition 18 is in limbo. The Proposition's steering committee has met and seems inclined to withdraw it. A second piece of legislation requiring 2/3rds vote is necessary to withdraw a ballot measure. The Administration has publicly stated it should be withdrawn. Since the legislature is in recess, Houston added, they need to reconvene soon in order to meet the Secretary of State's printing deadline for the ballot which is August 8<sup>th</sup>.

Board Member Doug Siden stated most Chamber of Commerce's are supporting Proposition 18. Radke said there did not appear to be an active campaign for Prop. 18 and

suspects it will fail if it stays on the ballot. Pfuehler mentioned if it lost, he wondered about the viability of bringing it back in 2012. Siden asked if support was strong in Southern California. Houston stated the development community in Southern California needs more water, but the economic downturn has slowed development. The environmental community in Southern California will also weigh in pretty heavily in opposition. Radke commented this would impact the general fund and is not paid for by Southern California water users. He believes this is a fatal flaw in the proposition.

*Proposition 19: Changes California Law to Legalize Marijuana and Allow it to be Regulated and Taxed – It 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.* Pfuehler stated, according to a July 15th poll, Proposition 19 is ahead again. Houston commented he thinks it will pass.

*Proposition 20: Redistricting of Congressional Districts – It would give the 14-member redistricting commission the authority to draw new lines for Congressional Districts. Currently, the Commission is only authorized to redraw state legislative districts.* Pfuehler stated Proposition 20 will most likely be legally challenged. Radke stated when they tried to impose term limits on the House of Representatives it was considered unconstitutional.

*Proposition 21: Vehicle License Fee for Parks – 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 – if passed this measure would raise about \$500 million for state parks and wildlife programs which would allow them to complete deferred maintenance projects and have a functional general operating budget.* Houston has not seen any polling on Proposition 21. He assumes advocates for the measure are actively campaigning.

Houston has spoken with Assembly Member Nancy Skinner and others about the District's interest in receiving direct funding to operate and maintain Del Valle, Crown Beach and Eastshore. He added the initiative sets aside \$25 billion annually for locals who operate State Parks. He speculated this would not be enough funding to offset losses incurred by all of the agencies currently operating State Parks. O'Brien stated all of this set aside will go to parks which collect gate fees. Eastshore has no gate fees and, therefore, would not receive any funding. He has discussed with Assembly Member Skinner and Senator Loni Hancock. An informational review will take place in August and the District will participate. Funds raised by the initiative will be placed in a separate trust and out of the hands of the legislature. The question is how much influence the legislature will have on how it is distributed. Given the amount of revenue the initiative will generate for State Parks, up to three or four times their current budget, there are some fundamental equity issues involved for parks in more urban areas, like the East Bay and Los Angeles, which are operated by locals.

Doyle wondered who within State Parks would decide priorities for expenditures and how money would be allocated. The measure only discusses percentages for the set asides, but does not address priorities for the bulk of the revenue. O'Brien pointed out the District's advocacy led directly to the 5% set aside, otherwise there wouldn't of been any consideration of agencies which operate State Parks.

Houston has requested an opinion from the Legislative Counsel about the oversight role the legislature has on how the funds are allocated. He added, should the initiative pass, some clean up legislation will likely be needed.

*Proposition 22:* The Taxpayer Protection Act is sponsored by the League of California Cities and California Transit Association. It would prohibit 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. They are trying to close any and all loopholes associated with Prop. 1A, and any potential borrowing from local governments. Houston said this measure has a good chance to pass, and it would give the District some further protection.

*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. O'Brien stated Proposition 23 is mainly funded by Texas oil companies. Houston said the Chamber, Manufacturing Association and the Chemical Industry Council are claiming AB 32 will cost the state a number of jobs. Radke wondered if the Governor or legislature is doing anything to oppose Proposition 23. O'Brien answered that the Governor has made statements opposing Proposition 23.

*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. Houston stated this proposition repeals some tax breaks for corporations which were enacted as part of last year's budget deal. The proposal is sponsored by the California Teachers Association and other unions. Radke asked if there were any specific tax breaks it would repeal. Houston cited two: the unitary tax and the single weighted sales tax factor which benefits export industries. The idea behind the latter is to treat California based exporting and manufacturing companies a little more favorably. Repealing these tax breaks would save the state about \$2 billion.

Pfuehler said he was surprised the Silicon Valley Leadership Group is pushing for these tax breaks which means they must benefit the high-tech industry in some way. Radke wondered how it got on the ballot. Houston said the unions which want the state to meet their guarantee of education funding under Proposition 98. Pfuehler commented there are some in the Democratic Caucus who would like this to be part of the budget negotiations this year.

*Proposition 25:* Houston stated Proposition 25 reduces the two-thirds vote threshold requirement to enact the budget to a simple majority with some exceptions. Tax increases would still require a two-thirds vote.

*Proposition 26:* Increases legislative vote requirement to two-thirds for state levies and charges. It is sponsored by the Howard Jarvis Tax Payers Association. Houston reported Proposition 26 seeks to resolve the dispute between what is a fee vs. a tax. Houston stated it goes back to the Sinclair Paint decision, in which the California Supreme Court rejected Sinclair's contention that certain fees they paid under the Childhood Lead Poisoning Prevention Act of 1991 were in fact unconstitutional taxes imposed with less than the two-thirds vote of the Legislature required by Proposition 13. Radke wondered how broad the

scope of the measure would be with regard to fees. For example, the District collects fees for access to public property. Assistant District Counsel Carol Victor said Proposition 26 needs more analysis and offered to research the proposition further.

*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 commented that Proposition 27 is being advanced by the political parties and there is only 16% approval for this proposition.*

## 2. FEDERAL LEGISLATION/ISSUES / ISSUES

### A. NEW

#### a. PROPOSED LEGISLATION

##### **S. 3539 San Francisco Bay Restoration Act**

This bill is similar to H.R. 5061 (Speier) which the Legislative Committee reviewed on May 21, 2010. Pfuehler stated Senators Boxer and Feinstein have taken up the Save the Bay Restoration Authority funding bill in the Senate side. The House bill was going to authorize a hundred million dollars for ten years every year for restoration efforts. It suggested projects in the North and South Bay, but ignored the East and West Bay, ie.: Breuner, Hayward and Hunter's Point. The Senate Environment and Public Works Committee essentially did a "gut and amend" to the House bill. They took out any mention of specific projects or dollar amounts and said this program would be authorized at such money that may be necessary for each year according to the appropriators. It is basically a very vague authorization of a program for ten years. The calculus is this could actually pass the Senate because it is vague.

Pfuehler reported the District met with both Senator Boxer and Senator Feinstein's staff to discuss this bill. The District suggested there should be some kind of criteria to give preference to areas more directly impacted by contamination – like Breuner Marsh near Richmond. The Senator's staffs were responsive to this idea, so the District is going to submit legislative language changes to the Senators. AGM Doyle pointed out the significance of including Hunter's Point in the discussion as it is not a District project and is in the Speaker's Congressional District.

Board recommendation: Work to amend

### B. ISSUES

#### a. TIGER Grant Application Update

##### TIGER Grant

Pfuehler reported the projects have been determined, and the District has projects in every Congressional District. There are reasonable links to transit for every piece, there is almost double the amount matching money needed and the District is receiving significant letters of support. The initial pre-application deadline was extended to July 26. O'Brien stated that in addition to the letters of support, the District is asking our Congressional delegation to make personal contact with U.S. Secretary of Transportation Ray La Hood.

The Metropolitan Transportation Commission's legislative committee voted to approve the District's project along with two others as their recommended recipients for TIGER II grant

funds. O'Brien stated the District has elevated this to a true transportation project, and he commended staff for their impressive work on this Green Transportation Initiative.

b. Great Outdoors Initiative Update

Pfuehler reported on the meetings he and O'Brien attended in Davis and in Charleston, South Carolina. Pfuehler stated there was a lot of discussion about land trusts, agricultural uses of open space and very little conversation about actually getting people outside. O'Brien said although the mandate comes from the President, there was no voice on either panel for public uses or encouraging Americans to be more fit. O'Brien further commented there was no one on the panels from the National Park Service or anyone to discuss the President and First Lady's 'Let's Move Initiative.'

c. Land and Water Conservation Fund Update

Pfuehler reported the Gulf oil spill has led to action on the Land and Water Conservation Fund (LWCF). The Senate is working to improve monitoring of offshore drilling and strengthening oversight of the Minerals Management Service. As part of that process, the Chair of the Resources Committee Jeff Bingaman of New Mexico and Mark Udall from Colorado wanted to offer language to S. 3516 in the Resources Committee to provide full, permanent funding for the LWCF. The amendment was pulled because Majority Leader Harry Reid was seeking bipartisan Committee bill on oil spill regulation. There is speculation if it goes to the floor, Senator Reid would allow a LWCF amendment to be offered and they will try to cobble the votes together.

Pfuehler commented on the House side, they just finished passing a bill in the Resources Committee to fully fund the LWCF. In the wake of the environmental disaster in the Gulf, there is a lot of movement and sympathy for using more oil royalty money to do something good. One sticking point appears to be the distribution of funds between the Federal and state sides – meaning should it be 50-50 or 60-40 or something else. If a precise split is contemplated now, it could be considered a 'new' program since the original LWCF did not specify the split. Any 'new' program would need an offset to pay for it under the recently enacted 'pay-go' rules. Pfuehler stated it is better to fund the program as is and then decide the split later.

3. PUBLIC COMMENTS

Grants Manager Jeff Rasmussen introduced the summer grants academic intern Chelsea Calkins who is currently studying at UCLA. O'Brien spoke about the academic intern program Board Member Carol Severin brought forward and the Board adopted. O'Brien has met with several department heads at universities and colleges who are very enthusiastic about this program. O'Brien stated this program gives students a great opportunity to come to an agency like the District, work on real projects, and get not only educational experience but life experience as well.

