

AGENDA
REGULAR MEETINGS
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, May 05, 2009

C. BUSINESS BEFORE THE BOARD

5. BOARD COMMITTEE REPORTS

c. Legislative Committee (02/20/09) _____ (Radke)

The Legislative Committee met at District headquarters on Friday, February 20, 2009.

Present: Directors: Ted Radke (Chair), John Sutter, Ayn Wieskamp
 Staff: Pat O'Brien, Erich Pfoehler, Rosemary Cameron, Dave Collins, Carol
 Victor, Jeff Rasmussen
 Consultants: Doug Houston, The Houston Group, George Manross, SRI
 Consulting
 Public: Hulet Hornbeck, Brian Balbas, Deputy Director of Contra Costa
 County Public Works Department, Hillary Heard, Special Districts,
 Contra Costa County Public Works Department, Michelle Lacy,
 Recreation and Services Manager, Town of Danville

I. STATE LEGISLATION/ISSUES UPDATE

A. NEW

a. Proposed Legislation
AB 83 / AB 90

Both bills clarify that if someone makes a good faith effort to assist another person in an emergency situation, they shall not be liable for any civil damages resulting from their rescue action. Currently, medical assistance is exempt, but physically moving someone from a dangerous situation is not. Advocate Doug Houston reported AB 83 and AB 90 are essentially the same bill. Houston stated AB 83 is more clearly written regarding emergency personnel. If emergency personnel perform some sort of emergency service while off duty they have immunity. This bill is addressing an immunity everyone thought was already in place under existing law. The California Supreme Court ruled recently on a case where a woman in a car accident became paralyzed after being pulled from her vehicle. The person that removed the victim from the vehicle thought the car would catch on fire. Other witnesses at the scene were less convinced the car would inflame. In the case, the Court ruled the person who removed the victim was liable. For the District, where a lot of volunteers provide trail patrol and other services, it is important the Good Samaritan law ensure we can provide reasonable assistance in emergencies.

The Legislative Committee unanimously voted to support both AB 83 and AB 90.

B. ISSUES

Prop 84 Implementation and Other State Bond Funded Projects

EBRPD is concerned about how California State Parks is defining poverty and low-income areas eligible for funding from the bond measure, Prop. 84, which passed with overwhelming Bay Area support in 2006. General Manager O'Brien commented the current proposal is to consider the income level and density within a one mile Euclidean Circle around the center of the proposed project. While this criteria may work well in downtown L.A., it is hard to find any parts of the Bay Area surrounded by a one mile circle of lower income households. Additionally, for shoreline parks half of the circle would be out over the Bay where no one lives. The district is concerned this regulatory interpretation is “defacto prejudicio” against the Bay Area. O'Brien added State Parks purchased computer software which functions best with the Euclidean Circle criteria. State Parks has held public meetings and have issued their draft procedural guide for general circulation. Several agencies are weighing in on this issue.

EBRPD has raised its concerns with Senator Loni Hancock and Assembly Member Nancy Skinner. Senator Hancock authored a letter to State Parks expressing the District's concerns about the criteria. Virtually the entire East Bay delegation signed onto the letter.

C. UPDATE

a. State Budget

Houston stated the emergency Executive Order put all non-budget related activity on hold. While some bills have been introduced, no hearings can be held until there is a budget agreement. Additionally, information about the budget negotiations is not being publicly released.

O'Brien stated that, so far, the State has not shifted revenue away from local governments to the Education Revenue Augmentation Fund (ERAF). Houston commented the State exercised some responsibility by not pulling the trigger on the old Prop 1A.

O'Brien mentioned the State has proposed borrowing from other sources such as the lottery. They have proposed securitizing lottery proceeds and bonding against future lottery revenues.

Director Sutter mentioned the possibility of Boating and Waterways being consolidated with State Parks, and the Integrated Waste Management Board folding into the California Conservation Commission. Houston said there are no legislation or trailer bills to require either of these actions, but the Chief of the Boating and Waterways Department is very concerned.

Director Radke mentioned the state has frozen work on a number of grant funded projects. The District has a number of projects for which work has been frozen.

Houston noted his firm is working with the California Park and Recreation Society (CPRS) to extend completion deadlines for projects for which funding has been frozen. Unfortunately, deadlines cannot be extended unless explicitly approved by the voters. This impacts projects funded by Props. 12 and 50, as well as others. If grant funding is not spent by the time project deadlines are reached, the money reverts back to the general fund. Houston suspects granting agencies will probably create new accounts which will reallocate unspent funds back to their respective agencies. The money will still be available, but it may require some administrative work with the agency to make sure EBRPD gets appropriate extensions.

Director Radke asked if agencies could spend this money on general operations and not specifically reallocate it for grant funded projects. Houston said that could happen, but there is enough general public awareness that it would be difficult for agencies to justify. Houston added the agencies want to maintain a good rapport with their constituents and accommodate the best they can.

Rasmussen stated State Parks informed the District they would honor their contracts even though they have frozen some grant funding. Most EBRPD projects will continue to move forward and the District will continue to seek assurances from the State about grant funded projects.

Director Sutter asked what will happen if the May 19th ballot measures do not pass. Houston replied that not every measure on the ballot has a direct impact on the budget, but the new Prop. 1A certainly does. The open primary measure and freezing legislative salaries when the state has a budget deficit will not directly impact the budget.

Director Radke said the sales tax provision is important. If the voters approve the spending cap, the sales tax will remain in effect longer than two years.

O'Brien commented borrowing from the lottery (Prop. 1C), the Prop. 63 Mental Health Services fund (Prop. 1E) and Prop. 10 the First Five Children and Families Trust Fund (Prop. 1D) will all be dependent on voter approval. Together, there is about \$10.9 billion in borrowing on the ballot.

Director Sutter asked if bond funded projects will move again now that a "budget deal" is in place. Houston said they will have cash flow in a few days so things should move. The State will issue bonds and have more cash available to reimburse agencies for projects.

O'Brien commented the voters need to approve the spending cap in order for the sales tax to continue beyond 2010.

Director Radke commented the 18-month, \$42 billion solution is likely to be revisited again this year. The 2/3rds threshold is very difficult in a state as diversified as

California. Victor said the California Teacher's Association (CTA) is working on an initiative to change the threshold to 55% to pass a state budget.

Houston mentioned CTA is also circulating an Initiative Statute and Constitutional Amendment to impose a 1% sales and use tax to supplement current education funding. Houston speculated this would not be well received.

Director Sutter asked about raising the Vehicle License Fee (VLF) from 0.65% to 1.15%, with 1% going to the state's general fund and 0.15% going to local law enforcement. He asked if EBRPD is considered local law enforcement. Houston believes because EBRPD is not a public agency first, so it does not qualify for the funds.

b. California Conservation Corps

No discussion. The Corps was threatened, but not cut and is still intact.

2. FEDERAL LEGISLATION/ISSUES

A. NEW

a. Proposed Legislation N/A

B. ISSUES

a. N/A

b. NRPA Conference

Pfuehler mentioned we will be discussing the District's 75th Anniversary with each Congressional office. There are also some specific earmark projects – Fire Fuel Hazard Reduction Program, I-580 Undercrossing, Tyler Ranch, etc. – on which we will be focused. Grants Manager Jeff Rasmussen submitted ten different projects to both Senators Feinstein and Boxer, a list of them will be included in each Board Member's packet. While it is unclear if "earmarks" will be funded next year, our delegation was still taking applications, so EBRPD submitted them.

We will also be discussing the reauthorization of the Federal Transportation bill. We need to push for trail funding in any transportation bill. Transportation Committee Chairman Oberstar is an avid bicyclist and trail user, which should help with trail funding.

The Concord Naval Weapons Station will also be discussed and EBRPD may ask for letters of support from Miller, Tauscher, Boxer and Feinstein.

Appointments with members are underway and two appointments are confirmed. A Capitol tour with Dan Beard, Chief Administrator of the Officer of the House, is also being arranged.

O'Brien mentioned the need to prioritize the list of topics to be discussed with Members as their time is very limited. O'Brien thanked Pfuehler for taking the lead on behalf of EBRPD and working with NRPA to ensure parks could qualify for stimulus funds. A Republican Senator from Oklahoma passed an amendment to prohibit community parks, and other entities such as casinos, golf courses and swimming pools,

from being eligible for stimulus funding. The “community parks” language was removed in Conference Committee with the support of our East Bay delegation. O’Brien also thanked Director Sutter for his discussion with Senator Boxer who took the lead on fighting to remove the prohibition on community parks.

c. Federal Economic Stimulus Package

Pfuehler stated there are two things in Federal Economic Stimulus Package upon which the District should focus. There is wildfire prevention money for non-federal lands, \$250 million in the overall package. The second item is transportation enhancement funding.

Pfuehler also mentioned Congressman Miller’s office confirmed that “community parks” are, indeed, eligible for stimulus funds. There was an attempt to exempt parks, but the District worked with our delegation and NRPA to defeat that effort.

3. MEASURE WW

a. Measure WW Local Grant Program

Brian Balbas, Deputy Director of Contra Costa County Public Works Department, thanked the District for allowing unincorporated Contra Costa County to receive funds from Measure WW. He stated they have a \$9 million Board of Supervisors approved Capital Improvement Plan (CIP) for trails and four pocket parks within unincorporated county. Mr. Balbas also pointed out that Ambrose Park was annexed by the City of Pittsburg in 2008 and is technically no longer part of Bay Point.

Michelle Lacy, Recreation and Services Manager, Town of Danville thanked the District for including local communities in Measure WW. The Town has CIPs totaling \$15.5 million which will benefit the 42,629 residents. Lacy noted the Green Valley Park and Recreation district exists wholly inside the Town of Danville and they do not manage parks or open space. During discussions about Measure WW, the Town was told they would be receiving \$1,948,358. At no time was the Town under the impression that any of these funds would be allocated to Green Valley Park and Recreation. They would support Green Valley receiving additional funds from the Measure, but not from the Town’s allocation.

O’Brien replied the District would work with the local agencies to resolve these disputes. Collins mentioned when overlapping jurisdiction questions arise, it is best for the local communities to decide what would best serve their residents. Absent that, the EBRPD Board would have to adjudicate these matters, either by deferring a resolution until next year or by making some decision in the next month.

Collins stated, with the help of District Grants Manager Jeff Rasmussen, the Local Grant Program is moving forward. Ten master agreements have already been signed. There are two areas of overlapping jurisdictions in dispute:

1. Green Valley Park and Recreation District and Danville, and
2. Ambrose Park and Recreation District and Contra Costa County.

The District has asked these jurisdictions to work together to develop a mutually acceptable plan. This year, the grant cycle requires all master agreements to be signed by the end of March. This is so the District can develop a budget and determine how many bonds they should issue. Absent timely agreements in disputed jurisdictions, the District will have to put off their allocations until next year. In 1988, both Green Valley and Ambrose received allocations from the Measure AA Local Grant Program. This precedent could be followed.

Director Radke stated in 1988 both Green Valley and Danville wanted funds based on their per capita service area. Rasmussen stated he believed that was how it worked in 1988. Collins reiterated these are separate agencies with concurrent jurisdictions.

The other option would be a land acreage formula for distributions of funds. The District has not previously apportioned money on an acreage basis. Rasmussen confirmed funds could go to park and recreation centers, as well as parks and open space, so an acreage formula may not be inclusive. A letter from Ambrose Park and Recreation District in opposition to an acreage formula was distributed.

b. Demographic Breakdown

Dr. Manross discussed the ethnic breakdown from his firm's Measure WW exit survey. The results show significant support from Black and Asian populations, and over 2/3 support from Hispanics.

Voters in Contra Costa County were very honest in answering exit survey questions. Alameda County voters were less accurate. It was surprising Alameda County voters were so unforthcoming about how they voted.

According to the Manross survey, Measure WW voters were 71% Caucasian, 6% Hispanic, 6% Black, 7% Asian and 2% Other. Dr. Manross suggested it would be interesting to break out the ethnicity of those who actually voted compared with the community at large.

4. PUBLIC COMMENTS

None