

AGENDA
REGULAR MEETINGS
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Friday, May 16, 2017

C. BUSINESS BEFORE THE BOARD

7. BOARD COMMITTEE REPORTS

b. Board Legislative Committee (3.17.17) (Corbett)

Present

Board: Director Ellen Corbett, Director Dennis Waespi, Director Beverly Lane

Staff: Robert Doyle, Debra Auker, Carol Victor, Rachel Sater, Tiffany Margulici, Erich Pfuehler, Lisa Baldinger, Xiaoning Huang, Jeff Rasmussen, Mona Koh

Consultants: Doug Houston, Houston Magnani & Associates

Public: Rick Rickard

This meeting was called to order at 12:41 p.m.

I. STATE LEGISLATION / ISSUES

A. NEW LEGISLATION

1. AB 184 (Berman D-Palo Alto) – Sea Level Rise Database for Planning

Advocate Doug Houston stated a sea level rise database has been in place since 2014, serving tremendous value to communities along the coast and in the Bay Area. The database provides sea level rise planning information, which includes studies, modeling, mapping, cost-benefit analysis, vulnerability assessments, adaptation projects, as well as statuses and updates of Local Coastal Programs. The database is set to sunset. This bill will repeal the sunset and make the Sea Level Rise Database a permanent fixture to monitored sea level rise today and into the future.

The Board Legislative Committee voted unanimously to SUPPORT.

2. AB 1358 (Cooley D-Rancho Cordova) – Online Posting of Public Hearings

Government Affairs Manager Erich Pfuehler shared Assembly Member Cooley amended AB 1358 on September 9th to create a free day of use at state parks with this legislation. Director Ellen Corbett asked why the date of the 9th. Houston and staff were unsure and will report back.

The Board Legislative Committee voted unanimously to SUPPORT.

3. AB 1433 (Wood D-Healdsburg) – Climate Adaptation and Resilience Based on Nature Act

Houston shared this bill creates the Climate Adaptation and Resilience Based on Nature Account in the Greenhouse Gas Reduction Fund (GGRF). The Account would be allocated 20% of the annual GGRF funds. Funds would be appropriated through the budget process to the Wildlife Conservation Board for a grant program. The bill recognizes the importance of natural lands in storing carbon, providing resiliency and adapting to a changing climate. Grants will be awarded to projects which reduce emissions of greenhouse gases, enhance long-term sequestration, promote climate adaptation in natural systems and provide multiple ecosystem benefits. In terms of funding, the Governor’s budget contains \$2.55 billion for future GGRF allocations, but the distribution of funds is predicated on extending the cap-and-trade program. The program is currently slated to expire in 2020. In addition, recent carbon auction sales have decreased significantly. Pfuehler added this legislation is consistent with the cap-and-trade scoping plan comments submitted by the District.

The Board Legislative Committee voted unanimously to SUPPORT.

4. AB 1608 (Kalra D-San Jose) – Vibrant Landscapes for Climate, People and Multiple Benefits

Houston stated this legislation is complimentary to the previous bill – speaking to the benefit of the working and natural lands. This bill requires the Department of Conservation to develop and implement the Vibrant Landscape Program (VLP). The VLP would provide grants for the development of county and regional plans which integrate land management with reducing greenhouse gas emissions. Director Corbett highlighted the regional reference in the bill. Director Corbett also commented Kalra is a new member, supportive of environmental issues and a great potential asset for the District. General Manager Robert E. Doyle shared San Jose is becoming a major metropolitan power. It is great to have an advocate at that level. Pfuehler added given the possibility for the District to do more in terms of riparian restoration, forest management and urban forestry, this legislation identifies these efforts as key components of adapting to a changing climate. They are also consistent with the development of the District’s Climate Action Planning Framework.

The Board Legislative Committee voted unanimously to SUPPORT.

5. SB 50 (Allen D-Santa Monica) – Protecting Federal Public Lands in California

Houston shared Senator Ben Allen seeks to establish new state policy and discourage the conveyance of Federal lands for private profit. In addition, this bill offers the State Lands Commission the right of first refusal to obtain any Federal lands proposed for sale or conveyance to other parties. The right of first refusal ensures the state reviews any transactions involving Federal lands in California. It also ensures important lands can be protected by state action. Leadership on the Senate side is being proactive in anticipation of new Federal legislation. Director Beverly Lane asked if it really ensures lands can be protected by the state. Houston suspected it would take litigation to determine if the state has this ability. Pfuehler shared the right of first refusal ensures the state has a chance to protect against conveyance. GM Doyle shared Federal agencies have a lot of legal power. At this time, the legislation demonstrates the state’s stance. Buying land that is already owned by the public can be perceived as redundant. Director Corbett mentioned Federal land transfers could possibly be exempt from state law.

The Board Legislative Committee voted unanimously to SUPPORT.

6. SB 234 (Berryhill R-Twain Harte) – Prohibiting Local Agencies from Regulating Fishing

Houston stated this bill would preempt local ordinances on fishing and fishing practices on state waters. There are incidences in the District where users access state waters, but fish from District lands. Thus, the District would want the prerogative to regulate actions in the parks. GM Doyle shared the District wants to control access to park waters for both public safety and liability purposes. If State regulations pre-empt local authority, the District could have some added legal exposure. District Counsel Carol Victor mentioned this could affect permit fees and ability of the District to regulate lakes. Director Corbett asked about waters of the state and the state parks the District manages. GM Doyle shared not only would Del Valle, Eastshore and Crown Beach contain waters of the state, but anything along Bay and Delta would be included as well.

The Board Legislative Committee voted unanimously to OPPOSE.

7. SB 249 (Allen D-Santa Monica) – Off-Highway Motor Vehicle Recreation

Houston announced the state Off-Highway Motor Vehicle Recreation (OHV) program is up for reauthorization this year. There are two bills to do so, one in the Assembly and one in the Senate. The Assembly version simply seeks to reauthorize the program. The Senate bill, SB 249, seeks to make substantial changes to the program. The Senate bill requires the Director of Parks and Recreation to assemble a science advisory team to ensure natural and cultural resources are taken into account. The bill would also prohibit any expansion of an existing, or development of any new, state vehicular recreation areas until the science advisory team completes its review and the department implements the recommendations. The bill also modifies the way OHV funds are distributed. A portion of the state's excise tax on gasoline is transferred monthly from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund. The formula for allocating these funds was developed in 2006-07 and includes street-legal vehicles which were anticipated to be used off-highway. This would basically include all four-wheel drive vehicles. Senator Allen's bill will revise the formula. First the funds will be transferred to the State Parks and Recreation Fund. It will require the Department of Parks and Recreation to account for these funds in their annual budget. Only after the annual state budget is enacted would the funds be transferred to the Off-Highway Vehicle Trust Fund. By including the fuel transfer funds in the budget process there is more transparency and the Department is more accountable. It also allows for the Department to expend some of the funds at non-OHV parks for transportation and access purposes. It should also be noted, Friends of Tesla have been asking for language to block expansion of the Carnegie OHV park. The author is resisting this specific carve out as it could lead to a Christmas tree of requests. If this bill were to become law, it would make the Tesla expansion difficult to move forward. GM Doyle stated this is a well-crafted bill – important for both what it does and does not say. At this time, the OHV commission can overrule impacts of OHVs. Director Lane asked if the bills continues to keep the OHV commission in existence. Pfuehler shared it keeps the commission, but ensures more oversight by the legislature and state parks.

The Board Legislative Committee voted unanimously to SUPPORT.

8. SB 365 (Dodd D-Napa) – Solano County Regional Park and Open Space District

Houston related Senator Dodd has introduced this bill to create a Solano County Regional Park District. Supporting the bill would demonstrate solidarity with a potential future sister agency. GM Doyle shared it would be a dependent county district. Pfuehler added the bill requires the county to manage the

District for at least ten years. After ten years, a majority of voters could decide by a ballot measure to create an elected board of directors.

The Board Legislative Committee voted unanimously to SUPPORT.

9. SB 386 (Glazer D-Orinda) – Smoking Ban on State Beaches

Houston shared this bill is similar to legislation vetoed by the Governor last year. This bill has a slightly narrower scope in an effort to gain the Governor’s support. Pfuehler added the District approved a ban on smoking in the parks in April 2016. An exception was made for overnight campsites. This bill would specifically impact that exception for Del Valle. Corbett reflected about a smoking ban for city parks that passed a few years ago. Houston confirmed this legislation is directed specifically at State Parks. District staff will be doing a further analysis with Public Safety to see how it will affect our operations. Director Waespi requested information about the effects of the District’s smoking ban. GM Doyle said staff will speak to Public Safety for information.

10. SB 720 (Allen D-Santa Monica) – Fire Ring Immunity for Public Entities

Victor spoke about Senator Allen’s bill which originated from Southern California. In the past, the District has undergone litigation after a three year old, unattended at a camp site, tripped and burned her hands. In 2012, a young boy fell into hot ash in a fire pit and the parents claimed twigs caused the boy to trip, resulting in injury. This bill would recognize hot ash as a known risk and not require public agencies to extinguish. GM Doyle shared staff would not be able to keep up with the demand if they were required to extinguish fires at 100 plus sites. Director Corbett questioned tort immunity. Victor confirmed the District argued for design immunity and dangerous condition of public property, but the District was unsuccessful in arguing immunity. Director Corbett also wondered about the signage at campgrounds. GM Doyle said “hot” would be stenciled on fire pits, as well as additional signage. District staff has provided public safety outreach. Director Corbett asked if information about extinguishing fires is shared with the public when they reserve a campsite. Victor confirmed it is in the reservation contract.

The Board Legislative Committee voted unanimously to SUPPORT.

11. SB 793 (Hill D-San Mateo) – Design Build for Midpeninsula Regional Open Space District

Houston shared this bill is specific to three local agencies, including Midpeninsula Regional Open Space District. The design-build process involves hiring a single contractor to design and construct a building project – functions often performed by two or more separately contracted entities. Supporters contend design-build can lead to overall savings and earlier project completion. At this juncture, there may or may not be value in expanding the bill to include the District. GM Doyle confirmed the District should watch the bill for now. There may be value to design build in the future for the District, but impacts to labor need to be considered.

12. SB 287 (Dodd D-Napa) – Protecting Native Plants from Phytophthora Pathogens

Houston stated this bill would require the California Department of Fish and Wildlife to adopt regulations to minimize the risk of Phytophthora pathogens in plant materials used for habitat restoration projects authorized, funded or required by the state. The presence of root-rotting Phytophthora species in commercial ornamental plant nurseries has been known for some time, but more recently, a wide variety of Phytophthora species have been identified in habitat restoration plantings and native plant nurseries in California. Native plants have no resistance to these introduced

pathogens, so they can cause great damage. Once they are in the wild, they are extremely difficult, if not impossible, to eradicate. The goal of this legislation would be to keep these pathogens out of native plant nurseries used for state funded restoration projects. Director Corbett questioned if California Native Plants Society had asked for our support. Houston confirmed.

The Board Legislative Committee voted unanimously to SUPPORT.

B. ISSUES

I. Park Bond Update

Houston related AB 18 is park friendly, inclusive of per capita funding, a regional parks program, disadvantaged communities, etc. The content is supported roundly by members of Assembly and Senate. The author, Assembly Member Eduardo Garcia, is working to expedite AB 18 and get it to the Governor's desk in the next several months. If vetoed, energies will pivot to a citizens' initiative. SB 5 is advancing through the Senate Natural Resources Committee. SB 5 is more focused on southern California and water issues. The Bay Area Caucus is to discuss SB 5 and AB 18. Director Corbett wanted to clarify the Caucus would be discussing how to move SB 5 in the direction of AB 18. Houston confirmed. Director Corbett asks to whom District staff has spoken. Houston shared Senator Bill Dodd, Senator Bob Wieckowski and Senator Nancy Skinner. Houston has discussed the bill with Senator Steve Glazer's staff. GM Doyle shared Save the Bay has been lobbying to include \$100 million for the San Francisco Bay Restoration Authority. The District is concerned this will negatively impact the funding of other Bay Area programs, such as the Coastal Conservancy's.

2. Endowments Update

GM Doyle discussed a bill from last year by Senator Wieckowski to exempt the District from holding endowments for projects on its own property which need mitigation. Restricting such funding, for a resource agency, is redundant and detracts from the District's ability to properly manage the parks. A two-year safe harbor agreement was reached while a committee convenes to discuss various options. The first meeting of the committee was two weeks ago. It appeared there was a sincere effort by the California Department of Fish and Wildlife. There was recognition of the uniqueness of the Park District. Potentially a litigation or repair fund could be put away by the District, rather than an endowment.

3. Other Issues

II. FEDERAL LEGISLATION / ISSUES

A. NEW LEGISLATION

a. H. Con. Res. 27 (Lowenthal D-CA) – America's Federal Public Lands Belong to All Americans

Pfuehler shared this is a non-binding resolution to keep public lands public. Such legislation was discussed during the Park District's recent trip to Washington D.C.

The Board Legislative Committee voted unanimously to SUPPORT.

2. H.R. 502 (Grijalva D-AZ) – Permanent Land and Water Conservation Fund Authorization

Pfuehler acknowledged this bill has been introduced multiple times in recent years. The LWCF expired, but there was a temporary rider extending the fund for three years. It has not yet been permanently

reauthorized or fully funded annually. In its history, it has only been fully funded once. This bill would make the authorization permanent.

The Board Legislative Committee voted unanimously to SUPPORT.

3. H.R. 1015 (Connolly D-VA) – Complete America’s Great Trails Act

Pfuehler discussed this legislation which offers a tax credit to a property owner who provides a conservation easement to certified National Scenic Trails. Director Corbett asked if this could include the Bay Trail. Pfuehler replied yes and that there are attempts to make the Bay Trail a national trail.

The Board Legislative Committee voted unanimously to SUPPORT.

B. ISSUES

a. D.C. Meetings Discussion

Pfuehler reported about the progress staff has made in following up for the Board of Director’s Washington D.C. visits with Members of Congress and Senators’ staff.

2. Other Issues

Pfuehler shared a graphic outlining President Donald Trump’s proposed “skinny” budget.

III. ARTICLES

None

IV. OPEN FORUM PUBLIC COMMENT

None

V. BOARD COMMENTS

Director Lane recalled an interesting discussion about the history of navy bases. She shared it with the GM for distribution. Director Waespi requested a future San Francisco Bay Restoration Authority board update. Director Corbett noted the Oakland Hills have Scotch Broom blooming in the medians which could affect our parks. She wondered Caltrans has the responsibility to get rid of these invasive plants. GM Doyle shared CNPS has tried to get them out of nurseries. Director Corbett requested a meeting with Caltrans.

This meeting adjourned at 2:26 p.m.

Respectfully Submitted:

Lisa Baldinger
Legislative Assistant