

AGENDA
REGULAR MEETINGS
BOARD OF DIRECTORS

EAST BAY REGIONAL PARK DISTRICT

Tuesday, January 12, 2016

C. BUSINESS BEFORE THE BOARD

7. BOARD COMMITTEE REPORTS

- a. Board Legislative Committee (6.19.15) (Burgis)

The Legislative Committee met at District headquarters on Friday, June 19, 2015.

Present: Directors: Dennis Waespi, Diane Burgis, Ayn Wieskamp (Alternate)
Staff: Robert E. Doyle, Erich Pfuehler, Jeff Rasmussen, Jim O'Connor,
Xiaoning Huang
Consultants: Doug Houston, Houston Magnani & Associates
Public: Pat O'Brien, Sean Rogers, Kelly Abreu

I. STATE LEGISLATION / ISSUES

A. NEW LEGISLATION

- I. **SCA 5 (Hancock D-Berkeley)** – Lower Voter Threshold (55%) for Local Revenue Measures

Legislative Advocate Doug Houston noted the legislation's focus was revised. The bill is now seeking to revise Proposition 13 and create a "split and roll" tax. It would require a new assessment of commercial property. It is estimated it could generate an additional \$9+ billion for the state. Polling has been generally favorable.

Government Relations and Legislative Affairs Manager Erich Pfuehler remarked the legislation changed since it was added to the agenda. The District has supported lowering the voter threshold to 55% for local measures in the past. Supporting again this year would have been consistent. Since the bill has changed Pfuehler is not sure if the District is prepared to make a recommendation on the split roll. Board Member Diane Burgis stated it would be better to look more closely at the bill before deciding to support or oppose. General Manager Robert E. Doyle stated there is an argument commercial companies are making a lot of money and not taxed at an equitable rate for services.

Board Member Dennis Waespi commented Senator Hancock's term ends in 2016. He wondered if another supporter for the 55% threshold had been identified. Houston replied he felt certain someone would take up the charge and allow for the dialogue to continue in the legislature.

The Legislative Committee of the Board voted unanimously to WATCH.

B. ISSUES

- I. **SB 317 (de Leon, D-Los Angeles) – Park Bond**

Houston provided a verbal update regarding the efforts to advance a park bond forward in

2016. He is hopeful after the budget is resolved, Senate pro-tempore de Leon will refocus his energies on the park bond, but the pro-tempore has a very ambitious legislative agenda – including carbon reduction and climate warming. Houston stated it is unknown if the Administration will engage.

Doyle stated the District's goal is to have park bond language ready to advance as either a standalone measure or included in another effort such as a transportation or infrastructure measure. The District has taken a leadership role in this effort. There has been a lot of pessimism from many park agencies who were devastated during the recession.

Director Burgis inquired about the amount of debt the bond would cause the state to incur. She wondered if the revenue and economic opportunities created by the investment could enable the bond to essentially pay for itself. Houston stated this sort of modeling has never been done, but would be very useful. Doyle stated paying off bond indebtedness is the highest priority for state expenditures. Director Burgis added the park bond measure would be an investment in tourism, the environment and jobs. Houston added it is an investment in parks infrastructure, which is several decades old and failing. This “fix it first” notion resonates with many legislators. Doyle discussed the District's efforts to advance the park bond forward.

Director Waespi asked if Senator de Leon was less enthusiastic about the park bond because it included per capita. The Senator seems to be more focused on the underserved. Houston did not think the issue was per capita. Senator de Leon has carried the park bond bill for three years, but Houston is not sure where it ranks among his overall priorities. He certainly is getting more press for his activity around climate change. Pfuehler added the Governor is supportive of climate change efforts.

Doyle added support for a park bond in 2016 has been building and the District is making good progress. State parks became a lower priority for the Governor. Doyle believes the Governor is waiting to see the results of the current state parks internal restructuring process.

Pat O'Brien stated, for the first time in decades, the state included an additional \$20 million for state parks infrastructure in this budget. Director Burgis asked what the previous budget was. O'Brien answered zero. Houston added the existing state park budget includes funding for operations, maintenance and personnel funding. This year, the governor added an additional \$20 million dollars to address some of the worst-case backlog scenarios. Houston hopes the trend continues and adequate per-capita funding is available to local agencies.

Doyle stated the measure's per-capita allocation needs to be increased from \$200 million to \$500 million. The District has been advocating for funding to deliver local park projects which will secure more buy-in for the overall bond. Increasing per capita funding will generate more support for the overall state park system. Houston added the de Leon bill is the first with specific funding for a “regional park” program. The \$200 million for this program would not have been included if not for the District's work.

2. AB 495 (Gordon, D-Menlo Park)

Doyle provided an overview about the current formal bidding process. This bill would help expedite contracting, allowing projects to move faster. He explained the last adjustment was in 1999. Both legal and construction staff have been pushing this for many years.

Director Burgis asked if it is likely to pass. Houston stated a letter of concern was received,

but the organization did not appear to testify. Director Burgis asked if it only affects the Park District. Houston replied just the District and Midpen. Director Burgis asked if cities require the same process. Houston replied cities operate under a different process. Director Burgis agreed the current number is small and costs agencies a lot of time and money.

3. Dedications

Doyle explained the Park Advisory Committee's (PAC) yearly approval process to dedicate properties. Permanent parklands once dedicated cannot be sold, with the exception of up to 40 acres a year if authorized by the Board of Directors. There are issues with the interpretation of the language. Exchanges of acres of easements and leases would be included as part the 40 acres. Increasingly, resource agencies, such as U.S. Fish and Wildlife Service, are requiring conservation easements as a condition for issuing permits. The 40 acre limit is becoming a challenge for the District in its efforts to comply with resource agency permitting requirements. Staff are examining the need for a language fix, which states exchanges of easements and leases can exceed the 40 acre limit as long as they are consistent with purposes of the Public Resources Code and the public agency.

Director Burgis asked Doyle if this would simply expand the 40 acre limit. Doyle replied he believes it opens the door to more acreage. It may also lead to questioning from different environmental groups. The intent of the language needs to be examined. Pfuehler added it is also a way to expedite permits.

4. Endowments

Doyle stated this is a continuing issue. The District is quite concerned about the requirement of an endowment for mitigation on lands which it owns. The District has argued the Board has the responsibility for permanent management/stewardship of these lands. The District's balanced budget and existence as a Public Resource Code public agency, should exempt it from having to permanently set aside millions of dollars for land it owns. The Department of Fish and Wildlife is seeking to impose these endowment requirements on public agencies. There was an issue with a non-profit in Southern California, and now the Department and land trust community are seeking uniform application of endowments. Doyle added, the District does have an exemption with the East Contra Costa County Habitat Conservation Plan. We may work on legislation to fix this emerging challenge. Others agencies, including Santa Clara Valley Water, are having similar issues and could help engage the legislature.

Director Waespi asked if the California Council of Land Trusts (CCLT) would oppose a narrow exemption for public agencies. Doyle replied the CCLT opposed previous legislation sponsored by the Santa Clara Valley Water District. Pfuehler added the precedent is the concern. He added additional background information on issues the the Santa Clara Valley Water District had with CCLT in sponsoring this legislation.

Doyle stated the District has a strong bond rating and over 80-year history of protecting land. It should be treated differently. Pfuehler stated for the purposes of this discussion, staff are not necessarily looking for a recommendation, but will likely engage in conversations with the Santa Clara County Water District, Midpeninsula Open Space District and other agencies about the willingness to move legislation forward again.

Director Burgis asked if there was a reason why it did not pass. Houston replied it was held on suspense in the fiscal committee. He believes there is an opportunity to possibly reintroduce this through another author. It might be an issue for State Park Partners to unify around.

Director Burgis stated she found it interesting the Governor moved forward with forcing the consolidation of troubled water agencies with larger, better funded agencies. Houston responded the consolidation is precedent setting. The budget language now grants the authority to the State Water Resource Control Board to compel receivership. Director Burgis asked if it will affect the Park District in any way. Houston replied he doesn't think we have any disadvantaged communities with particularly poor water service in the East Bay. Doyle replied we have disadvantaged communities, but not with water. O'Brien stated it is a dangerous precedent to bypass the LAFCo consolidation process.

5. May Revise – Cap and Trade

Houston explained a possible working group may be established between the Assembly and Senate to work through some of the difficult issues on Cap-and-Trade allocations. One priority for park agencies is to secure funding for the Urban Greening program which has been administered by the Strategic Growth Council. This program could help fund non-motorized trails and land acquisitions. Houston is hopeful this will be included in the Governor's three year investment plan. The District should be active and engaged during the process, which would include going before the California Air Resources Board and stating the District's case.

Director Burgis asked if the active transportation program was trail money. Houston replied that it is. Assistant Finance Officer Rasmussen added the Urban Greening program could benefit District priorities such as the Albany Beach restoration project. Doyle mentioned the Governor's priority has been high-speed rail, but more resource related funding is a good goal. Director Burgis wondered how "local climate action" is being defined. Doyle stated the District needs to be involved when the term is defined. Pfuehler added a number of municipalities have adopted local climate change adaptation strategies called "climate action plans." Pfuehler elaborated one component some plans consider is health, particularly the impacts to communities adjacent to freeways, etc. He believes Senator de Leon is attempting to help those disadvantaged communities where greenhouse gas emissions impact their health.

6. San Francisco Bay Restoration Authority

Houston provided an overview about legislation authored by Assembly Member Phil Ting. The District is pushing for an amendment to ensure an elected official from a bayside Special District is eligible to be Chair of the Authority. The bill is being held up by Republicans. Director Burgis asked why it is a partisan issue. Houston replied Republicans generally don't like creating new tax leveeing authorities, particularly when there are existing agencies designed to protect the Bay. The Bay Conservation and Development Commission, for example. Doyle also added Special Districts provide a more regional approach to governance as many of them cross municipal jurisdictions. The Authority is currently heavily weighted toward cities.

Director Waespi inquired about the size of the organization. Pfuehler responded it includes seven geographically distributed board members. The District secured an amendment when the Authority was created which added two extra seats to the board which could be filled by an elected official from an open space district. Pfuehler added Senator Feinstein insisted the Chair of the Authority be an elected official in order to have accountability. That is the main focus of the Ting legislation.

7. Other Issues

Pfuehler added Assembly Bill AB 665 as an additional item for discussion by the committee. Houston informed the committee about a series of meetings that have been held. The District

has submitted a letter of opposition to AB 665 unless there is an amendment. The District is scheduled to testify on Tuesday. At this juncture, the District is requesting a buffer to prohibit hunting in proximity to park properties.

Doyle explained the recent process of amending Ordinance 38 to include a 150 yard buffer between levees, like the Bay Trail on the Hayward Shoreline. He elaborated that hunting within the proximity of school groups, commuters and recreational trail users is not a compatible use.

Director Burgis noted the use of the trails by veterans. The noise could be traumatic for veterans suffering from Post-Traumatic Stress Disorder. Board Member Ayn Wieskamp asked who will be testifying at the hearing. Doyle replied Police Chief Tim Anderson will be testifying on behalf of the District. Director Wieskamp and Director Burgis asked if other agencies are expected to testify. Doyle stated the District has received some letters, but there is an intimidation factor in play, due to the fact that the author, Assembly Member Jim Frazier, is the chair of the transportation committee.

Director Burgis remarked two areas most affected are Hayward Shoreline and Big Break Regional Shoreline. Doyle added Breuner Marsh and any waters of the state. He is concerned with the proximity of hunters to trail users, particularly if the hunters are not visible. The shock to the sound of the shooting would be dramatic. There are also liability issues. There has not been much cooperation by the author. Pfuehler asked for ideas about to whom Assembly Member Frazier would listen. Director Burgis responded she lives in the area of Big Break and lived with sounds of gunshots which are upsetting to a lot of people. She recommended distributing an article about the subject to see what kind of response is received. Director Waespi asked if Assembly Member Bill Quirk, who represents Hayward Shoreline, has weighed in at all. Doyle responded the bill received a unanimous vote on the Assembly floor. Director Wieskamp added it should be made clear who accepts liability for any incidents.

II. FEDERAL LEGISLATION / ISSUES

A. NEW LEGISLATION

I. S. 492 (Reed, D-RI) and H.R. 882 (Sarbanes, D-MD) – No Child Left Inside Act

Pfuehler stated The No Child Left Inside (NCLI) Act would provide funds to encourage partnerships between school districts, colleges, parks, and non-profits and other community-based organizations to implement the improved curricula and provide professional development for teachers on the use of field-based, service and experiential learning. The states are able to award subgrants, on a competitive basis, to local educational agencies and eligible partnerships to support the implementation of the State environmental literacy plan. A regional and/or local environmental or natural resource management agency, such as the District, which has demonstrated effectiveness in improving the quality of environmental education teachers would qualify as an eligible partner.

Pfuehler stated it is consistent with District programming and activities. If the committee agrees to support, the District would notify the authors and our delegation in the hope that more East Bay Representatives would cosponsor. Director Wieskamp moved to support and Director Waespi seconded.

The Legislative Committee of the Board voted unanimously to SUPPORT.

2. S. 596 (Feinstein, D-CA) and H.R. 1140 (Speier, D-CA) – San Francisco Bay Restoration Act

Pfuehler stated his bill is similar to legislation authored by Senator Dianne Feinstein and Representative Jackie Speier last Congress, which the District supported. The legislation establishes a grant program within the Environmental Protection Agency for restoration projects and specifically states special districts are eligible recipients. The grant program is funded at \$5 million a year for FY 2015 through FY 2019.

The District received a grant in the amount of \$1 million dollars for the Breuner Marsh project. The Region IX office of the Environmental Protection Agency (EPA) is running a grant program for the San Francisco Bay out of their general fund. This legislation would codify this program and allocate specific funding for Bay restoration projects. Doyle stated Senator Feinstein's top priority will likely be the South Bay, as she is a proponent of the South Bay salt ponds restoration. Rasmussen added at an EPA requested tour of Coyote Hills, they stated interest in funding some of the projects there. Director Waespi moved to support and Director Wieskamp seconded.

The Legislative Committee of the Board voted unanimously to SUPPORT.

Staff Recommendation: SUPPORT

3. S. 630 (Feinstein, D-CA) and H.R. 1208 (Garamendi, D-CA) – Sacramento-San Joaquin Delta National Heritage Area Establishment Act

Pfuehler stated Senator Dianne Feinstein has reintroduced her bill to create a National Heritage Area within the National Park Service for the Delta. The designation is designed to protect and promote the cultural, historical and natural assets of the region. The legislation would authorize modest funding to the California Delta Protection Commission to implement the National Heritage Area, with up to a 50% Federal cost-share for improvement projects. Private property owners and tribes are explicitly protected in the legislation and capable of opting out of any recommendations. State water procurement policy is not within the mission statement of the National Heritage Area. There is also a specific prohibition on the acquisition of real property with any Federal funds provided to the heritage area.

Pfuehler added this is something the District has supported in the past and should continue to support. Doyle remarked it is a promotional opportunity for this local area. A similar designation along the Columbia River between Oregon and Washington has created a bit of a destination for outdoor recreation. Director Burgis stated she believes this is a positive attempt for the area to define itself. The Delta is unrepresented in a lot of ways. Director Burgis inquired if the District was asked to write a letter of support. Pfuehler replied the District was not asked specifically, but would recommend it. Director Wieskamp moved to support and Director Waespi seconded.

The Legislative Committee of the Board voted unanimously to SUPPORT.

4. S. 890 (Cantwell, D-WA) and H.R. 1814 (Grijalva, D-AZ) – Permanent Reauthorization of the Land and Water Conservation Fund

Pfuehler provided an overview about the bill and explained two issues related to the Land and Water Conservation Fund (LWCF): reauthorizing the overall program and the actual annual funding for the year. This bill would permanently authorize at \$900 million dollars a year. The current 50-year LWCF authorization is expiring this year. The District has benefitted from LWCF and should support the permanent reauthorization. With regard to annual funding, it looks like approximately \$300 million included in the House appropriations bill and similar

levels in the Senate. There is full support in our delegation, with the exception of Senator Feinstein. She is an appropriator, so she typically does not favor permanent funding levels of any kind. Director Waespi moved to support and Director Wieskamp seconded.

The Legislative Committee of the Board voted unanimously to SUPPORT.

5. S. 1069 (Blumenthal, D-CT) and H.R. 781 (Connolly, D-VA) – Complete America’s Great Trails Act

Pfuehler stated this proposed legislation would grant a tax credit to private landowners who provide conservation easements to certified National Scenic Trails – resulting in a low-cost incentive for willing landowners to donate easements that would increase trail connectivity. This means private landowners have a new incentive to allow hikers to pass through their property, and trails get a guaranteed corridor that protects the connectivity and continuity of the hiking experience for years to come.

Pfuehler added the District has supported this bill the in the past. Pfuehler believes this is the type of bill which can receive bi-partisan support. The Juan Bautista de Anza National Historic Trail could benefit. The legislation could also be a direct benefit for the District. Director Burgis inquired about the title of National Scenic Trail. Pfuehler replied the title is designated by Congress. Director Burgis asked if the designation could include trails in a regional park. Doyle replied it could. It would be included on the national map of trails and could receive federal funding. Skyline National Trail is now a part of the Bay Area Ridge Trail, and first in the country to with a national trail designation through a regional park. Director Waespi asked if Niles Canyon was designated as a national or state scenic highway. Doyle replied it is designated through the state. Director Burgis asked if there was a reason why the other representatives, other than Senator Feinstein, were not on board yet. Pfuehler replied he is unsure of the reason, however, if a resolution to support is adopted, it would be shared with the delegation and it could encourage support. Director Burgis added she is curious if there is a reason as to why they weren’t supporting yet. Pfuehler stated he will look into it. Director Wieskamp moved to support and Director Waespi seconded.

The Legislative Committee of the Board voted unanimously to SUPPORT.

6. S. 1078 (Heinrich, D-NM) and H.R. 2014 (Kind, D-WI) – Healthy Kids Outdoors Act

Pfuehler stated the Healthy Kids Outdoors Act will provide incentives to states to develop cross-cutting, five-year strategies to get children and families active in the great outdoors. If a state such as California were to implement a strategy, the bill provides for subgrants to local partners to help implement the strategy. “Parks and recreation departments or districts” are eligible to partner. This bill is supported by the American Camping Association. The grant program is \$6 million dollars. The precedent is great. Pfuehler believes the District should support and inform our delegation. Director Burgis would like to support. In addition, she suggested data be collected about the positive impacts of outdoor activity. Pfuehler stated information about our impact with the Kids Healthy Outdoors Challenge will be available. The Public Affairs division has contracted with UC Berkeley for assessments to be conducted. Director Burgis remarked hopefully the \$6 million could grow over the years if financial benefits could be shown. Pfuehler added it could leverage money from Kaiser and other foundations. Director Wieskamp wondered if support could be received from Kaiser or the other connections the District has with Healthy Parks, Healthy People. Director Wieskamp moved to support and Director Waespi seconded.

The Legislative Committee of the Board voted unanimously to SUPPORT.

B. ISSUES

I. Transportation – Special Districts letter

Pfuehler provided an update about the Federal Transportation Bill, MAP-21, which was extended to the end of July 2015. Federal money for the Active Transportation program in the state is at risk. The District put together a joint letter, including six other special park districts, to show support for paved trails as a transportation alternative. Director Burgis remarked about the Special Park District Forum in Michigan where other park agencies did not view their trails as transportation networks. She believes education is needed to create support. Doyle replied the Detroit area had a number of parks and a lot of recreation, but no coordination between the parks and getting people to the parks. Pfuehler added there is a good network of trails in that area.

III. CONTRA COSTA COUNTY TRANSPORTATION AUTHORITY EXPENDITURE PLAN ADVISORY COMMITTEE

Pfuehler stated the expenditure plan for a ½ cent add on to Measure J is being developed. The District has a specific set of projects which total approximately \$122-125 million dollars and also a request for \$2.5 million a year for trail maintenance. Trails Manager Sean Dougan is the District's representative on the Expenditure Plan Advisory Committee (EPAC) and Pfuehler is the alternate. Staff is arranging for certain Board members to meet with elected officials serving on the Contra Costa Transportation Commission for specific asks. We will begin with the 15% set aside and see where it will lead.

Director Burgis noted Bob Taylor from Brentwood is on the Commission and believes he's someone the District should meet with, as well as Janet Abelson. Pfuehler added during a meeting with the ex-officio member of the Commission, Amy Worth, her recommendation was to meet with all the Commissioners at a political level. Pfuehler believes having a presentation to the Commissioners is also important. Doyle provided history about his experience with the last measure. Director Burgis inquired about the timeline required to spend funding. Rasmussen replied there is no deadline. Doyle added operations and maintenance staff are looking into how to expand their ability to deliver on more paving projects. Doyle also expressed support for county funding for roads in District parks.

Director Waespi asked Pfuehler if all of the EPAC participants have been chosen and if it is final. He wondered if a health care agency should be included. Pfuehler replied he doesn't believe it is final, but they were not willing to have a third alternate. He stated he would look into why a health care agency was not included.

IV. PUBLIC COMMENTS

Kelly Abreu addressed the committee regarding the hunting ban from publicly navigable waters. Mr. Abreu also stated he is currently waiting on the results of a District staff study on a proposed smoking ban. Mr. Abreu expressed his concern about pedestrian counts not included in the use studies at Mission Peak.

Sean Rogers addressed the committee and asked for clarification regarding the increase of the contracts the General Manager could execute without a vote of the Board. Doyle provided clarification.

There was no further public comment.

The meeting was adjourned by Director Burgis.

Respectfully submitted:

A handwritten signature in blue ink, appearing to read "E. Pfuehler", is written over a horizontal line.

Erich Pfuehler
Government Affairs Manager