

Summary Minutes of the
Delta Protection Commission Meeting
Thursday, March 26, 2009

ADMINISTRATIVE AGENDA (Items 1-6)

1. Call to Order/Flag Salute

Chair Nottoli called the meeting to order at 5:45 p.m.

2. Introduce and Welcome New Members of the Commission and Recognize Senate and Assembly Ex-Officio Members of the Commission Appointed by the Legislature as Provided for in the Delta Protection Act.

Chair Nottoli introduced Jan Vick, Mayor of Rio Vista as the new ABAG appointee and noted that Barbara Kondylis, Solano County Supervisor has been appointed as the ABAG alternate.

3. Roll Call

Present: Chair Nottoli, Commissioners Armor, Becerra, Cabaldon, Dawson, Eggman, Ferguson, Johnston, Kelly, McGowan, Newton, Ray, Reagan, Ruhstaller, Scriven, Trott, van Loben Sels, Vick, and Mark Wilson.

Absent: Commissioners Piepho and Daniel Wilson.

4. Public Comment. Opportunity for Members of the Public to Address the Commission on Items Not on the Agenda.

Sean Dempsey, Stockton gave a report on the Floating Islands projects. The project uses natural processes to treat polluted waters while providing habitat, carbon sequestration, erosion control and beauty in addition to treating effluent from sewage and stormwater ponds, cleansing rivers, lakes and streams, and removing nutrients from golf courses, zoo ponds, wineries and farms.

Bill Worrell, Antioch stated that he was concerned about AB 1253 (Fuller) as the legislation would eliminate the striped bass in the Delta. He asked that the Commission weigh in on the matter.

CONSENT AGENDA (Items 5-13)

Chair Nottoli moved Agenda Items 9, 10, and 13C to the Regular Agenda.

Commissioner McGowan moved approval of the remainder of the Consent Agenda; Commissioner Newton seconded. The Consent Agenda was approved unanimously.

REGULAR AGENDA (Items 9, 10, 13C, 14-23)

9A. Consider Position of Support for Senate Bill 459 (Wolk) Relative to Proposed Abandoned Vessel Removal Program Legislation.

Commissioner Kelly announced that she would abstain from voting on the item.

Commissioner Newton stated that while it is recognized that funding for the program would be needed, the legislation would not be able to move forward if funding were incorporated into the bill.

Commissioner Reagan stated that he would support with amendments, relative to funding and the need to recognize that the issue should not be moved from State to local jurisdictions.

Commissioner McGowan asked that the Commission have serious discussions before taking positions on legislative matters.

9B. Authorize Chair of the Commission to Submit Letter of Support for Senate Bill 459.

Commissioner Newton moved approval for the Commission to Submit Letter of Support for Senate Bill 459; Commissioner Reagan seconded as support in concept. The motion was approved 12:0:5 by voice vote.

(ayes: Cabaldon, Eggman, Ferguson, Johnston, McGowan, Newton, Nottoli, Reagan, Scriven, van Loben Sels, Vick, and M. Wilson; Noes: 0; Abstentions: Armor, Becerra, Kelly, Ray, and Trott; Dawson and Ruhstaller were not present during the vote).

10. Receive Informal Copy of Request for Proposals Prepared and Distributed by Commission Seeking Consultant Support for Development of a National Heritage Area Application Proposal and Related Outreach Program Pursuant to Commission Action on January 22, 2009.

Commissioner Wilson asked that this item be postponed to the next meeting as he felt he did not know enough about National Heritage Areas. Ms. Fiack responded that she and Alex Westhoff would set up a meeting with Commissioner Wilson, and any other Commissioners on request, as there have been several presentations previously made to the Commission.

13C. Project Tracking List

Ms. Fiack noted that the location of the SMUD Lot Line Adjustment (Project SO-08-2) should be changed from the Primary Zone to the Secondary Zone on the project tracking list based on additional information received by the Commission.

Commissioner Reagan moved approval of the revised project tracking list; Commissioner Armor seconded. The motion was approved unanimously.

14. Receive Information Presentation from the Department of Water Resources on the State Water Plan Update.

Kamyar Guivetchi reported that the State Water Plan has released the public review draft; workshops would be held from February through May throughout the State; and the due date for sending in public comments is June 5, 2009. Mr. Guivetchi distributed a booklet outlining the details of the project. It was noted that the Delta workshop will be scheduled immediately preceding the May 21, 2009 Commission meeting.

15A. Receive Update From Commission Staff Consulting Team on the Management Plan Update Process, Including Proposed Schedule for Adoption on July 23, 2009.

Dorian Fougere, Center for Collaborative Policy reported that the team met on March 5, 2009 to discuss and work through the comments from the January 22, 2009 meeting. He said that key themes included: buffers, residential growth, water conveyance, areas around levee standards, and transportation. Mr. Fougere asked the Commission for comments.

Dan Siegel commented that the majority of the provisions in the Plan are in line with the Act. He also said that where jurisdiction over State agencies comes down to the Act and the Water Code, then the Water Code prevails.

15B. Consider and Discuss Revisions and Amendments Made to the Management Plan Draft Presented to the Commission on January 22, 2009 Taking Into Consideration Input from Commission Member Discussion, Public Workshops Conducted on February 7, 2009 and February 11, 2009, and Advisory Team Discussion and Recommendations on March 5, 2009.

Commissioner Cabaldon commented that if Delta Vision is implemented, amendments to the Act will likely be required.

Commissioner McGowan commented that he would like to see deference given to locals to determine buffers.

Commissioner van Loben Sels stated that he wanted to make sure that any policies regarding buffers should be crystal clear to developers and lawyers.

Commissioner Cabaldon stated that 500 feet for buffers is arbitrary, however the ag commissioners approach is too wide open.

Commissioner Reagan stated that he agrees that 500 feet is too large; however, an ag commissioner would be a good person to set any policy.

Commissioner Mark Wilson stated that he agreed with Commissioner Cabaldon's comments on buffers, but would like to see a third option.

Commissioner Johnston commented that the law provides a distinction for a higher level of protection in the Primary Zone and the Commission should use the plan to enforce values in the Act; however, if the standards are eliminated then the Act may not have the high standards that the Primary Zone requires. He further stated that an ag commissioner could not be neutral because the Board of Supervisors is his/her boss.

Commissioner Mark Wilson asked for a definition of non-ag development and ag development as he wanted to see flexibility built into set backs.

Commissioner Trott stated that he had researched what other counties are doing with respect to buffers and has found that each county is different. He further stated that he felt that an ag commissioner could weigh in but not be the final decision maker.

LAND USE Policy 4

Commissioner van Loben Sels stated that he liked Option 4.

Commissioner Mark Wilson stated that all the Land Use options should be stricken as no one in the Delta has adequate flood protection and there could be no further building in the Delta if the Commission were to adopt the options.

Commissioner Cabaldon stated that he felt the Management Plan Update does not support legacy towns and it seemed that the Commission was layering its own rules on top of FEMA, SAFCA, and CVFCB. He also stated that he would like to see a map of increased zoning entitlements in the Primary Zone.

Commissioner McGowan stated that the challenge is that the Act does not state that there cannot be residential development.

Commissioner van Loben Sels asked for the definition of residential development. He also said that there should be provisions dealing with building up.

Commissioner Wilson said that 35% of the land in Clarksburg is owned by absentee owners and much of the remainder of land is owned by elderly residents. Additionally, he would like to see an incentive program set up for TDR's.

Commissioner Nottoli asked that relative to TDR, he would like to see the maps and zoning entitlements from 1992 until 2009.

Commissioner Ray said that he would like to know how TDR programs work in various counties.

WATER – Policy 4

Commissioner Cabaldon noted that recreation should be promoted in the Delta and there should be additional policies added to the Management Plan Update.

Commissioner Reagan noted that under the Delta Vision and BDCP, one half of habitat would take over ag and that mitigation is to increase recreation.

Commissioner van Loben Sels asked that Water Policy 4 be deleted.

Commissioner McGowan moved that Water Policy 4 be deleted from the draft; Commission Kelly seconded. The motion was approved 17:1. (Commissioner Ferguson voted no).

15C. CONVENE PUBLIC HEARING No. 1 of 3 (Pursuant to Public Resources Code Section 29762) to Receive Comments on Draft Revisions and Amendments to the Management Plan.

Chair Nottoli convened the public hearing.

Bill Worrell asked if the Department of Boating and Waterways would be closed. Commissioner Becerra responded that DBW would not be closed, but several months earlier there was a proposal to realign DBW with the Department of Parks and Recreation.

Chair Nottoli closed the public hearing.

15D. Provide Input and Direction to Staff Consultant Team Pursuant to Commission Member Discussion and Public Comment.

Chair Nottoli stated that the staff consultant team should come back in April with some recommendations utilizing input from the Commissioners.

15E. Direct Staff to Return on April 23, 2009 with Recommended Draft Revisions and Amendments to the Management Plan Reflecting Input Received from Commission Members and the Public during Public Hearing No. 1 and to Conduct Public Hearing No. 2.

Chair Nottoli asked that staff incorporate the discussion into the next update and return with a clean draft at the April meeting.

16. Receive and Discuss Listing and Current Membership of Commission Ad Hoc/Appointed Sub-Committees.

This item was postponed.

17A. Recognize Provisions of the Delta Protection Act (Act) (Chapter 4, Section 29753) Requiring Commission Appointment of Agricultural, Environmental and Recreation Advisory Committees.

No action was taken on this item.

17B. Receive and Discuss Existing Advisory Committee and Standing Committees and Recommend Revisions to Title and Role Designations if Determined Appropriate to be Consistent With Provisions of the Act.

Commissioner Newton stated that she would serve on the Human Resources Committee and the Budget Committee. Commissioner Becerra stated that she would serve on the Budget Committee.

Ms. Fiack recommended that the SAFCA and TMDL Committees be eliminated.

Commissioner McGowan moved approval of the revised Committee listings; Commissioner Mark Wilson seconded. The motion was approved unanimously.

17C. Discuss and Consider Membership of the Advisory Committee and Standing Committees.

No action was taken on this item.

17D. Direct Staff to Include an Item on the April Commission Meeting Agenda to Receive Input Relative to Membership on Advisory Committees.

No action was taken on this item.

18. Receive Update From a Representative of the Five Delta Counties Coalition on Activities That May be of Interest or Relative to the Commission.

Commissioner McGowan reported that the 5 Counties have been in discussions with Secretary for Resources and several legislators relative to Delta matters.

19. CLOSED SESSION. At a Convenient Time During the Meeting, the Commission May Have a Closed Session, Pursuant to Government Code Section 11126(e), to Conduct Annual Performance Evaluation of the Executive Director of the Commission.

The Commission adjourned into closed session at 9:05 p.m. and adjourned out of closed session at 9:45 p.m.

20. Report on Action Taken in Closed Session.

Chair Nottoli commended Ms. Fiack and acknowledged her work on behalf of the Commission and agreed on a rating of exemplary. It was also noted that compensation for the Executive Director position should be increased.

21. Consider for Approval, Modification of Executive Director Compensation and Effective Date for Modification.

Commissioner Newton stated that to her knowledge, base funding for the Commission administration could not support an upgrade for the Executive Director. Ms. Fiack reported that her discussions with budget staff have indicated that the base funding and budget program do provide for the increased compensation.

Commissioner McGowan stated that the economic climate at this time is challenging for government entities.

Chair Nottoli said that he would work with the Executive Director, and Commissioners Newton and Becerra to discuss funding for the upgrade.

22. Commissioner and Staff Comments/Announcements.

There were no announcements.

23. ADJOURN

The meeting was adjourned at 10:00 p.m.