

Summary Minutes of the
Delta Protection Commission Meeting
Thursday, November 12, 2009

ADMINISTRATIVE AGENDA (Items 1-4)

1. Call to Order/Flag Salute

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

2. Introduction of New/Reinstated Commissioners.

Chair Nottoli welcomed back Commissioners Brand and Kelly.

3. Roll Call.

Present: Chair Nottoli; Commissioners Brand, Becerra, Dawson, Eggman, Johnston, Kelly, McGowan, Morey, Pegos, Piepho, Ray, Reagan, Ruhstaller, Scriven, van Loben Sels, Vick, Daniel Wilson and Mark Wilson.

Absent: Commissioners Cabaldon and Ferguson.

4. Public Comment

No one addressed the Commission.

CONSENT AGENDA (Items 5-13)

Executive Director Fiack moved Agenda Item 6A to the Regular Agenda. Commissioner Pegos moved Agenda Items 10, 11, and 12 to the Regular Agenda.

Commissioner Piepho moved approval of the remainder of the Consent Agenda; Commissioner Pegos seconded. The Consent Agenda was approved unanimously.

REGULAR AGENDA (Items 6A, 10, 11, 12, 14-18)

6A. Executive Director's Report

Executive Director Fiack reported that SBX7 1 would take effect February 4, 2010. Ms. Fiack also reported that Commission staff, in consultation with the Budget Committee, has prepared and submitted a Budget Change Proposal to request a budget augmentation to support compliance with the mandates of the legislation.

10. Receive Informational Overview of Commission and University of California, Davis Small Farm Program Co-Sponsorship Sponsorship of a Public Workshop to Promote Agri-Tourism in the Delta.

Ms. Fiack reported that Commission staff along with the UC Davis Small Farm Program will convene an introductory workshop meeting for local farmers to discuss the possibility of Delta agri-tourism development, branding, and marketing. Commissioner Pegos stated that the Department of Food and Agriculture would like to participate as a co-sponsor of the workshop.

11. Receive Information on Sacramento Area Council of Governments (SACOG) Rural-Urban Connections Strategy (RUCS).

Commissioner Pegos and Ms. Fiack reported on the Delta tour sponsored by SACOG as part of the RUCS Program which included several Commission members and the Executive Director as speakers.

12. Receive Informational Update on Department of Water Resources (DWR) Process for Developing a Central Valley Flood Protection Plan.

Ms. Fiack reported that Commission is represented on the Delta Regional Work Group. Commissioner Pegos reported that an Ag Sub-committee had been convened as a component of the process and that the Department of Food and Agriculture has been participating in meetings.

14. Elect Chair and Vice-Chair of the Commission (taking into consideration recommendation of the Nomination Sub-Committee) for a Term of Two Years, Effective January 1, 2010.

Commissioner Piepho reported that the Nominating Sub-committee, comprised of Commissioner Ferguson and herself, has discussed the election of the Chair and Vice Chair taking into consideration the criteria adopted by the Commission. She provided the Sub-committee's recommendation that Commissioner Nottoli be re-elected as Chair and Commissioner van Loben Sels be re-elected as Vice-chair.

Commissioner Piepho moved that Commissioner Nottoli be elected Chair and Commissioner van Loben Sels be elected Vice Chair; Commissioner Reagan seconded. The motion was approved unanimously,

15. Receive Staff Update on the Great California Delta Trail Feasibility and Planning Process Underway in Contra Costa and Solano Counties, and Trail Overlay on Existing Trails Delta-wide.

Ms. Fiack reported that she attended the Glen Cove Waterfront Park Ribbon Cutting groundbreaking ceremony for the Delta Trail. The Delta Trail marker was distributed to Commissioners. She reported that the Commission has entered into a contract with ALTA Planning + Design with funding support from the Coastal Conservancy Grant awarded to the Commission to begin the planning and feasibility process of the Delta Trail in Contra Costa and Solano counties. She noted that Contra Costa County has also committed funding and in-kind support for the Trail in the County. Commissioner Ray asked that staff consider integration opportunities with the three State recreational trail systems that are overseen by State Parks in the Delta.

16. A. DISCUSS AND CONSIDER ADOPTION of Meeting Time Change and/or Day Change in Order to Address the Impacts of Budgetary Restrictions on the Availability of Meeting Venues.

Ms. Fiack reported that it has become increasingly difficult to locate venues in the Delta because of budget constraints and the lack of staffing by those entities that previously provided venues. Moreover, because the new Delta legislation designates the Commission must meet in a "city" in the Delta it will be important for local government Commission members to assist staff in securing meeting facilities. No action was taken on this item.

B. ADOPT Commission Meeting Schedule (Including Alternate Dates) for 2010.

Commissioner Reagan moved the item; Commissioner Daniel Wilson seconded. The motion was approved unanimously.

17. Update of the 1995 Land Use and Resource Management Plan for the Primary Zone of the Delta (Management Plan).

Ms. Fiack provided a summary of the MPU update process that commenced in March 2008.

Commissioner van Loben Sels requested of the Chair that during the MPU voting process, a roll call vote be taken on the more controversial policies.

Commissioner Ruhstaller asked who would review the updated Management Plan for consistency with the new Delta legislation. Ms. Fiack responded that the Commission would continue functioning in its role under the Delta Protection Act pending the legislation taking affect on February 4, 2010. Matt Campbell also responded that there may not be an immediate inconsistency as the Commission is acting in its role under existing law.

Commissioner McGowan asked what would be the authority of the new Commission to modify the Management Plan. Mr. Campbell reported that he did not have a definitive answer to that question at this time.

A. RECEIVE (as informational reference) Goals and Policies of the Draft Management Plan Considered and Approved by the Commission on May 21, 2009, August 19, 2009 and September 24, 2009 for Recommended Adoption as a Regulation at a Subsequent Meeting of the Commission (Attachments, 17.A1, A2 and A3).

No action was required on this item.

B. CONSIDER, DISCUSS AND APPROVE for Inclusion in the Revised Draft Management Plan for Recommended Adoption as a Regulation at a Subsequent Meeting of the Commission:

- **Natural Resources Policy 5, and Utilities and Infrastructure Policies 1, 5, and 7 provided in the Draft Revised Management Plan Dated May 7, 2009 Taking Into Consideration Comments Provided on Said Policies (Attachments 17.B1 and B2).**
- **Draft Revised Overview, Chapter Introductions, and Glossary Taking Into Consideration Comments Provided on Said Components (Attachments 17.B3, B4 and B5).**

Commissioner Brand referenced the comment letter submitted by the State Agencies. Commissioner Daniel Wilson asked if the State Agencies meeting violated the Bagley-Keene Act. Mr. Campbell responded no.

Natural Resources Policy 5 was discussed with the facilitator leading the discussion. Chair Nottoli convened the public hearing. No one addressed the Commission. The public hearing was closed.

Commissioner Daniel Wilson moved approval of the policy with recommended changes; Commissioner Reagan seconded. The motion was approved 12:7. Ayes: Commissioners Nottoli, Dawson, Eggman, McGowan, Piepho, Reagan, Ruhstaller, Scriven, van Loben Sels, Vick, D. Wilson, and M. Wilson; Noes: Commissioners Becerra, Brand, Johnston, Kelly, Morey, Pegos, and Ray.

Utilities and Infrastructure Policies, 1, 5, 7 were discussed with the facilitator leading the discussion. Chair Nottoli convened the public hearing. No one addressed the Commission. Ms. Fiack noted that a comment letter was submitted by Mr. Will Middleton. The public hearing was closed.

Commissioner Daniel Wilson moved approval of the policies with changes; Commissioner Scriven seconded. The motion was approved unanimously.

The Overview Text Section was discussed with the facilitator leading the discussion. Commissioner Ray asked that language on the last line on page 24 of the Overview text be changed to add State Parks' before Delta Meadows. Commissioner Morey stated that the State Agencies letter suggests that the Levees Overview text should be revised to acknowledge levee risks and climate change.

Commissioner Piepho moved for approval and recommended adoption; Commissioner Wilson seconded. The motion was approved unanimously.

The Glossary was discussed with the facilitator leading the discussion. Commissioner Scriven moved for approval and recommended adoption of the Glossary; Commissioner Daniel Wilson seconded. The motion was approved unanimously.

MPU SECTIONS

Commissioner Wilson moved for recommended adoption as a regulation at a subsequent meeting the Utilities and Infrastructure Section; Commissioner Scriven seconded. The motion was approved unanimously.

Commissioner Scriven moved for recommended adoption as a regulation at a subsequent meeting the Glossary Section; Commissioner Daniel Wilson seconded. The motion was approved unanimously.

Commissioner Becerra moved for recommended adoption as a regulation at a subsequent meeting the Recreation Section; Commissioner Daniel Wilson seconded. The motion was approved unanimously.

Commissioner Daniel Wilson moved for recommended adoption as a regulation at a subsequent meeting the Water Section; Commissioner Scriven seconded. The motion was approved unanimously.

Commissioner Scriven moved for recommended adoption as a regulation at a subsequent meeting the Agriculture Section; Commissioner Piepho seconded. The motion was rescinded.

Commissioner Kelly moved that that Agriculture Policy 5 be changed to read “protect agriculture lands from conversion to development uses”; there was no second. Commissioner Daniel Wilson moved that Agriculture Policy 5 be approved with no change, Commissioner Reagan seconded. The motion was approved 13:5:1. Ayes: Commissioners Becerra, Dawson, Eggman, McGowan, Nottoli, Piepho, Reagan, Ruhstaller, Scriven, van Loben Sels, Vick, D. Wilson, and M. Wilson; Noes: Commissioners Brand, Johnston, Kelly, Morey, and Ray; Abstentions: Commissioner Pegos.

Commissioner Ray asked that the second sentence in Agriculture Policy 6 be deleted. Commissioner Ray moved approval of Agriculture Policy 6 with modifications; Commissioner van Loben Sels seconded. The motion was approved 15:4: Ayes: Commissioners Becerra, Brand, Dawson, Eggman, Johnston, Kelly, Morey, Nottoli, Pegos, Piepho, Ray, Ruhstaller, Scriven, van Loben Sels, and Vick; Noes: Commissioners McGowan, Reagan, D. Wilson, and M. Wilson.

Commissioner Wilson moved for recommended adoption as a regulation at a subsequent meeting the Agriculture Section with amendments to Policies 5 and 6; Commissioner Scriven seconded. The motion was approved 15:4: Ayes: Commissioners Becerra, Dawson, Eggman, Johnston, McGowan, Nottoli, Pegos, Piepho, Reagan, Ruhstaller, Scriven, van Loben Sels, Vick, D. Wilson, and M. Wilson; Noes: Commissioners Brand, Kelly, Morey, and Ray.

Commissioner Daniel Wilson moved for recommended adoption as a regulation at a subsequent meeting the Natural Resources Section with recommended changes; Commissioner Reagan seconded. The motion was approved 12:7; Ayes: Commissioners Dawson, Eggman, McGowan, Nottoli, Piepho, Reagan, Ruhstaller, Scriven, van Loben Sels, Vick, D. Wilson, and M. Wilson; Noes: Commissioners Becerra, Brand, Johnston, Kelly, Morey, Pegos, and Ray.

Commissioner Daniel Wilson moved for recommended adoption as a regulation at a subsequent meeting the Levees Section; Commissioner Scriven seconded. The motion was rescinded by Commissioner Scriven.

Commissioner Ray moved that Levees Policy 4 be modified to add the language “encourage flood-proofing of existing structures, emergency preparedness, and purchase of flood insurance until adequate flood protection is available;” Commissioner Kelly seconded. The motion failed 10:9: Noes: Commissioners Dawson, Eggman, McGowan, Nottoli, Piepho, Reagan, Ruhstaller, Scriven, Vick, and D. Wilson; Ayes: Commissioners Becerra, Brand, Johnston, Kelly, Morey, Pegos, Ray, van Loben Sels, and M. Wilson.

Commissioner Daniel Wilson moved that Levees Policy 4 be approved with no modifications; Commissioner Scriven seconded. The motion was approved unanimously.

Commissioner Daniel Wilson moved for recommended adoption as a regulation at a subsequent meeting the Levees Section; Commissioner Scriven seconded. The motion was approved 18:1: Ayes: Commissioners Becerra, Brand, Dawson, Eggman, Johnston, Kelly, McGowan, Morey,

Nottoli, Pegos, Piepho, Reagan, Ruhstaller, Scriven, van Loben Sels, Vick, D. Wilson, and M. Wilson; Noes: Commissioner Ray.

Commissioner Kelly moved that Land Use Policy 14 be changed to delete the word “risks” and replace them with “adverse effects”; Commissioner Becerra seconded. The motion was approved unanimously.

Commissioner van Loben Sels moved that Land Use Policy 3 be changed to include language for the right to determine buffers; Commissioner Johnston seconded. The motion failed 17:2: Ayes: Commissioners Johnston, and van Loben Sels; Noes: Commissioners Becerra, Brand, Dawson, Eggman, Kelly, McGowan, Morey, Nottoli, Pegos, Piepho, Ray, Reagan, Ruhstaller, Scriven, Vick, D. Wilson, and M. Wilson.

Commissioner Brand moved that Land Use Policy 2 be changed to delete the word “strongly” and change the last phrase to say “recreation and natural resources land uses shall be supported in appropriate locations and where conflicts with agricultural or other beneficial uses can be minimized; Commissioner Ray seconded. The motion was approved 16:3: Ayes: Commissioners Becerra, Brand, Dawson, Eggman, Johnston, Kelly, McGowan, Morey, Nottoli, Pegos, Piepho, Ray, Ruhstaller, Scriven, van Loben Sels, Vick, and M. Wilson; Noes: Commissioners Reagan, D. Wilson, and M. Wilson.

Commissioner van Loben Sels moved that Land Use Policies P-11 and P12 be replaced with Agriculture Policy10; No one seconded.

Commissioner Daniel Wilson moved for recommended adoption as a regulation at a subsequent meeting the Land Use Section with amendments; Commissioner Kelly seconded. The motion was approved 17:1: Ayes: Commissioners Nottoli, Becerra, Brand, Dawson, Eggman, Johnston, Kelly, McGowan, Morey, Pegos Piepho, Ray, Ruhstaller, Scriven, Vick, D. Wilson, and M. Wilson; Noes Commissioner van Loben Sels. Commissioner Reagan was not present to vote.

Commissioner Piepho moved for recommended adoption as a regulation at a subsequent meeting the Map and Introduction Section; Commissioner Scriven seconded. The motion was approved 17:1: Ayes: Commissioners Nottoli, Becerra, Brand, Dawson, Eggman, Johnston, Kelly, McGowan, Morey, Pegos, Piepho, Ray, Scriven, van Loben Sels, Vick, D. Wilson, and M. Wilson; Noes: Commissioner Ruhstaller. Commissioner Reagan was not present to vote.

Chair Nottoli convened the public hearing. No one addressed the Commission. The public hearing was closed.

C. APPROVE FOR RECOMMENDED ADOPTION AS A REGULATION AT A SUBSEQUENT MEETING OF THE COMMISSION the Draft Management Plan in Which Policies and Related Components Have Been Included as Approved by the Commission on May 21, 2009, August 19, 2009, September 24, 2009 (Attachment 17.C), and as Discussed and Approved on November 12, 2009.

Utilities and Infrastructure: Approved Unanimously.

Recreation & Access: Including Marine Patrol, Boater Education and Safety Programs:
Approved Unanimously.

Water: Approved Unanimously.

Glossary: Approved Unanimously.

Agriculture: Approved 15:4; Ayes: Commissioners Nottoli, Becerra, Dawson, Eggman, Johnson, McGowan, Pegos, Piepho, Reagan, Ruhstaller, Scriven, van Loben Sels, Vick, D. Wilson, and M. Wilson; Noes: Commissioners Brand, Kelly, Morey and Ray.

Natural Resources: Approved 12:7; Ayes: Commissioners Nottoli, Dawson, Eggman, McGowan, Piepho, Reagan, Ruhstaller, Scriven, van Loben Sels, Vick, D. Wilson, and M. Wilson; Noes: Commissioners Becerra, Brand, Johnston, Kelly, Morey, Pegos, and Ray.

Levees: Approved 18:1; Ayes: Commissioners Nottoli, Becerra, Brand, Dawson, Eggman, Johnston, Kelly, McGowan, Morey, Pegos, Piepho, Reagan, Ruhstaller, Scriven, van Loben Sels, Vick, D. Wilson, and M. Wilson; Noes: Commissioner Ray.

Land Use: Approved 17:1; Ayes: Commissioners Nottoli, Becerra, Brand, Dawson, Eggman, Johnston, Kelly, McGowan, Morey, Pegos, Piepho, Ray, Ruhstaller, Scriven, Vick, D. Wilson, and M. Wilson; Noes: Commissioner van Loben Sels; Not present for vote: Commissioner Reagan.

Introduction/Map: Approved 17:1; Ayes: Commissioners Nottoli, Becerra, Brand, Dawson, Eggman, Johnston, Kelly, McGowan, Morey, Pegos, Piepho, Ray, Scriven, van Loben Sels, Vick, D. Wilson, and M. Wilson; Noes: Commissioner Ruhstaller; Not present for vote: Commissioner Reagan.

D. CONSIDER APPOINTMENT of a Subcommittee or Subcommittees of Members of the Commission If Determined Necessary in Order to Address Outstanding Policy Issues to Successfully Conclude the Process for Updating the Management Plan.

No action was taken on this item.

18. ADJOURN

The meeting was adjourned at 9:40 p.m.