

Summary Minutes of the
Delta Protection Commission Meeting
Thursday, February 25, 2010

City of West Sacramento – Galleria
1110 West Capitol Avenue
West Sacramento, California 95691

ADMINISTRATIVE AGENDA (Items 1-4)

1. Call to Order/Flag Salute.

Chair Nottoli called the meeting to order at 5:40 p.m.

2. Introduction of Commissioners

Chair Nottoli announced that Gregg Albright, Business, Transportation and Housing; Lester Snow, Natural Resources Agency; Paul Thayer, State Lands Commission; and William Kristoff, City of West Sacramento were the newest members on the Commission.

Matt Campbell swore in Commissioners Kristoff, Snow and Thayer. Commissioner Albright was not present.

3. Roll Call.

Present: Chair Nottoli; Commissioners Eggman, Ferguson, Kristoff, McGowan, Pegos, Piepho, Reagan, Ruhstaller, Scriven, Snow, Thayer, and van Loben Sels.

Absent: Commissioner Albright

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

No one addressed the Commission.

CONSENT AGENDA (Items 5-12)

Commissioner Piepho moved Item 5 to the Regular Agenda.

Commissioner Pegos moved Items 6A and B to the Regular Agenda.

Commissioner Reagan moved approval of the remainder of the Consent Agenda; Commissioner Piepho seconded. The motion was approved unanimously by voice vote. Commissioner Eggman was not present for the vote.

REGULAR AGENDA (5, 6, 13-20)

5. Receive as Informational, Minutes of January 28, 2010 Meeting of the Commission.

Commissioner Piepho asked that more substance be added to Agenda Items 14 and 15 to capture the essence of comments made on the items.

6. **RECEIVE Proposed Amendments to the Management Plan as a Regulation (Title 14, CCR, Sections 20030-20110) Governing Land Use and Resource Management in the Primary Zone of the Sacramento-San Joaquin Delta Pursuant to Public Resources Code, Sections 29760-29767.**
 - A. **ADOPT Proposed Amendments to the Management Plan as a Regulation (Title 14, CCR, Sections 20030-20110) Governing Land Use and Resource Management in the Primary Zone of the Sacramento-San Joaquin Delta Pursuant to Public Resources Code, Sections 29760-29767.**
 - B. **DIRECT the Executive Director to Complete the Administrative Process, Including Making Non-Substantial Changes to the Proposed Amendments to the Management Plan and/or Regulations if Determined Necessary by the Office of Administrative Law.**

Commissioner Snow noted that he had submitted a letter to the Commission requesting that action on the item be deferred 30 to 60 days to have a public discussion on the economic sustainability plan and what in the new legislation changes the powers and authority of the Commission.

Commissioner Pegos stated that the item should be pulled and put over because of the new legislation and to give the newest members of the Commission an opportunity to get up to speed.

Commissioner Thayer stated that he would like the items deferred because he would like to get up to speed on the issue. He also said that he would like to ensure that the document reflects restoration of habitat.

Commissioner Reagan noted that the Commission has been working on the Management Plan for three years and that it discussed economic sustainability and would incorporate any amendments as needed.

Commissioner McGowan stated that the concerns raised were acknowledged; however, the Commission worked hard on the Management Plan and it is known that the Commission might still have to make adjustments over time.

Commissioner Piepho said she was supportive of moving forward on adopting the Management Plan. She also said that there will be more water legislation coming and any adjustments to the Plan would be taken care of as needed. She asked if another hearing would be necessary if the Commission put voting off for another month to make changes. Mr. Campbell responded that it would depend on the nature of the conflict because provisions in the Act state that anything in the Plan that conflicts with the water code, or if anything the Commission does conflicts with the jurisdiction of any other state agency, would not prevail nor would the provisions in the Plan be effective. He also said that the Commission could amend the Plan as deemed necessary in the future.

Commissioner McGowan moved to adopt the proposed amendments to the Management Plan as a regulation (Title 14, CCR, Sections 20030-20110) governing Land Use and Resource Management in the Primary Zone of the Sacramento-San Joaquin Delta pursuant to Public Resources Code, Sections 29760-29767; Commissioner Reagan seconded.

The motion was approved 9:3 by roll call vote. (Ayes: Nottoli, Ferguson, Kristoff, McGowan, Piepho, Reagan, Ruhstaller, Scriven, and van Loben Sels. Noes: Pegos, Snow, and Thayer). Commissioner Eggman was not present for the vote.

13.
 - A. **Elect Chair of the Commission, from Members Representing a County Board of Supervisors, for a Term of One Year, Effective February 25, 2010; and**
 - B. **Consider, and if Recommended Pursuant to Commission Discussion, Elect a Vice-Chair for a Term of One Year Effective February 25, 2010.**

Commissioner McGowan moved to nominate Don Nottoli to serve as Chair of the Delta Protection Commission for a one year term; Commissioner Piepho seconded. The motion was approved unanimously by voice vote.

Commissioner McGowan moved to nominate Mike Reagan to serve as Vice-Chair of the Delta Protection Commission for a one year term; Commissioner Piepho seconded. The motion was approved unanimously by voice vote.

14. Adopt Commission Meeting Schedule for 2010.

Linda Fiack, Executive Director recommended the Commission adopt the schedule which includes monthly meetings through July because of the time frames set in the new Delta legislation relative to tasks to be completed by the Commission. She also announced that another facet of the new legislation requires the Commission to pass an action by 8 votes—which equates to a majority of the total membership and not a majority of the members present.

Commissioner Piepho moved approval of the meeting schedule for 2010; Commissioner Ruhstaller seconded. The motion was approved unanimously by voice vote.

15. Receive Informational Update on the Delta Stewardship Council and the Delta Conservancy.

A. Recognize the Chair as a Voting Member of the Delta Stewardship Council.

Commissioner Snow reported that the Delta Stewardship Council appointments were imminent. He also said that the effective date of the legislation moved the former CALFED staff to the Delta Protection Commission and staff has been developing an RFP to move forward with hiring consultants to support completion of the Delta Plan. Ms. Fiack clarified that the CALFED group has been moved to the Council and not the Commission.

B. Appoint a Member of the Commission to Serve on the Delta Conservancy as One of Ten Nonvoting Liaison Advisers.

Ms. Fiack reported that many of the Commission member entities would be on the Conservancy Board and that the Commission would be represented on the non-voting Advisory Committee. She said that to her knowledge there have been no meetings scheduled to date. She noted that she has been coordinating with the Conservancy staff. She asked that the Commission make their appointment to the Conservancy.

Commissioner McGowan asked if the appointment must be a Commissioner. He also asked that the appointment be deferred to another meeting for Commission discussion. Mr. Campbell responded that the Commission has latitude because the language states that the appointment must be a “designee” which does not necessarily have to be a Commissioner but that it may be preferable for the appointee to be within the Commission “family.”

Commissioner Ruhstaller suggested the Commission wait to make the appointment until further discussion to insure appointment is a good fit for the Commission and the Conservancy.

Commissioner Piepho moved to put the action over to the March 25, 2010 meeting; Commissioner Reagan seconded. The motion was approved unanimously by voice vote.

16. A. Consider Commission Committees for Re-Appointment or Termination

Ms. Fiack explained that this item is for the Commission to consider appointments to or termination of the various adhoc, advisory and standing committees. She requested that the Commission review the lists and make any necessary changes. She also asked the Human Resources committee remain for recruitment purposes because she is retiring at the end of June, and that pursuant to the Governor's proposed budget, the Commission may be making enhancements to staffing next fiscal year.

Commissioner McGowan stated that the Chair and Vice-Chair should review the lists and determine which committees would be appropriate and bring their findings back to the Commission.

Commissioner van Loben Sels asked that the standing committees be extended.

Commissioner Piepho moved that the Chair and Vice-Chair be appointed to the Human Resources Committee; Commissioner McGowan seconded. The motion was approved unanimously by voice vote.

B. Consider Appointment of New Committees Determined to be Appropriate Pursuant to Commission Member Discussion or Required Pursuant to Legislative Mandates.

Ms. Fiack reported that Section 29753 of SBX7 1 requires that the Commission appoint an advisory committee to provide recommendations reflective of the diverse interests and expertise of the Delta. She asked for Commission input for representation on the committee.

Chair Nottoli opened the discussion for public comment.

Phil Harrington and Ann Spaulding, representatives of the City of Antioch asked that the City be considered for representation on the Advisory Committee. Mr. Harrington said the City has been active in Delta issues, participated in Delta Vision, and is currently participating in the Bay Delta Conservation Plan process in addition to their work with the Contra Costa Water District. Mr. Harrington also announced that the City of Antioch would be honored to host a Commission meeting.

Commissioner Piepho asked that the City of Antioch's request to serve on the Advisory Committee be considered. She also suggested that the Executive Committee meet and return with a master blueprint of viable committee names and have the Executive Director send out a ballot to solicit interest. Mr. Campbell cautioned that sending out a ballot would not be allowable under Bagley Keene; however, the Commission could solicit names during a meeting of the Commission.

Commissioner Ruhstaller noted that many of the names on the existing committees may not be current.

17. A. Discuss the Process for Preparation of Recommendations Regarding the Potential Expansion of, or Change to, the Primary Zone for Submittal to the Legislature by the Commission Before July 1, 2010.

Executive Director Fiack reported that pursuant to Delta legislation and discussion at the January 25, 2010 meeting, staff prepared a process outline identifying characteristics, constraints and ranking criteria for discussion and consideration. She noted that an RFP for consulting support could be prepared using the outline as a basis. She clarified that while the Commission may have some funding available for seeking consultant support it would be necessary for additional sources to be identified and suggested that member contributions might be a viable source. She asked for input.

Commissioner Ruhstaller commented that considering the Commission's limited staffing and funding, it is questionable the report could be prepared by the due date. Ms. Fiack responded that it is imperative that the Commission exhibit due diligence in meeting the mandates of the legislation.

Commissioner Snow noted that the Delta legislation has a number of misalignments of due dates and reiterated the importance of expressing intent to meet provisions of the legislative mandates. He extended an invite to the Executive Director to meet with him to explore potential funding sources.

Chair Nottoli opened the discussion for public comment.

Bill Geyer, Resources Landowners Coalition stated that he was interested in the process. He said that some of the areas identified in the Primary and Secondary Zones are not well defined—particularly the south delta wetlands and some areas within the City of Isleton. He asked that the Commission consider due process to allow landowners to obtain information, and consider specificity to the definition of the Primary and Secondary Zones.

Jan Vick stated that key stakeholder involvement should be a more formalized process as the issue is significant for the cities and landowners. She said that she would like to be involved in the process.

B. Appoint Members of the Commission to Advise and Guide the Process on Behalf of the Commission.

Commissioners Ferguson, Piepho, and Ruhstaller stated that they were interested in serving on the Advisory Committee. Commissioner McGowan stated that he was interested, and Commissioner Kristoff said that Commissioner Cabaldon was interested as well. Commissioner Pegos stated that he was interested and suggested that Commissioner Albright (who was not present) be included.

Commissioner Piepho moved that Commissioners Albright, Cabaldon, Piepho, Pegos, Ferguson, Ruhstaller, and Jan Vick (subject to re-appointment to the Commission) serve on the Advisory Committee to work with staff on the process to move forward on the legislative requirements for the Commission to provide recommendations on the potential expansion or change to the Primary Zone or the Delta; the motion was seconded by Commissioner Reagan and approved unanimously by voice vote.

C. Provide Direction to Staff for Initiation of the Process, Including Preparation of a Request for Proposals for Consultant Support.

Staff was directed to initiate a meeting of the appointed Advisory Committee.

18. Receive Information Update From the Delta Counties Coalition

Commissioner Piepho stated that the five Delta counties continue to pursue engagement into the Bay Delta Conservation Plan process and met with federal delegations and agencies in Washington DC to represent the residents in the Delta. She said that even though the counties are faced with limited resources, they are committed to influencing the development of a statewide management plan.

19. Commission and Staff Comments and Announcements.

Ms. Fiack reported that Commission staff held an AgTourism workshop in partnership with the UCD Small Farm Program and the Department of Food and Agriculture. There were three panels, over 50 participants, and good dialogue. She invited Commissioners to complete the on-line survey on the Commission web site to provide feedback from which next steps will be identified. Ms. Fiack also reported that Commission staff held workshops in Contra Costa and Solano counties on the Delta Trail Blueprint Development process and the Commission is partnering with SACOG to apply for grant funding to expand the process to Sacramento and Yolo counties.

Commissioner van Loben Sels announced that the North Delta Improvements Group is now partnering with the Corps of Engineers to start construction on the restoration of McCormick-Williamson Tract.

Commissioner Snow noted that the Natural Resources Agency has been unsuccessful in deterring the implementation of the Corps of Engineers vegetation policy relative to levee maintenance and flood control in the Delta. He stated the Agency is considering elevating the issue to the highest political levels and, if necessary, litigation. Commissioner Piepho asked that the Commission continue to receive updates on the matter.

20. ADJOURN

The meeting was adjourned at 7:40 p.m.