

MINUTES
SAN FRANCISQUITO CREEK
JOINT POWERS AUTHORITY BOARD
28 April 2005

Chairperson Zlotnick called the meeting to order at 6:00 p.m. at the City of Palo Alto Council Chambers, 250 Hamilton Avenue, Palo Alto, California.

1. Roll Call

Members Present: Chairperson Zlotnick, Santa Clara Valley Water District
Director Mossar, City of Palo Alto
Director Duboc, City of Menlo Park
Director Abrica, City of East Palo Alto
Director Gordon, San Mateo County Flood Control District

Members Absent: None

Alternates Present: Yoriko Kishimoto (City of Palo Alto)
Kelly Fergusson (City of Menlo Park)

Associate Members Present: Pam Sturner, Watershed Council
Michael Fox, Stanford University

JPA Staff Present: Cynthia D'Agosta, Executive Director
Andrew Kloak, Kevin Murray, Staff

Others Present: Debra O'Leary (City of East Palo Alto/COE); Michael Levin (EPA.net); Steve Ritchie (South Bay Salt Pond Restoration Project); Janice Lera-Chan, Yvonne LeTellier, Henri Langlois (Army Corps of Engineers-SF District); Anthony Docto, Fernando Bravo (City of East Palo Alto); Jeffrey Shore (Duveneck St. Francis Neighborhood Association); Glenn Roberts, Joe Teresi (City of Palo Alto); Beau Goldie (SCVWD); Kent Steffens (City of Menlo Park); Ann Stillman (San Mateo County Flood Control District); John Schaefer (Palo Alto Resident); Mary Schaefer (Palo Alto Resident); Arthur Keller (Palo Alto Resident); Shannon Pekary (East Palo Alto Resident); Art Kraemer (Palo Alto Resident); Xenia Hammer, Loren Sorensen, Sue Sorensen (Crescent Park Neighborhood Association)

2. APPROVAL OF THE March 24, 2005 SPECIAL MEETING MINUTES

The Board considered approval of the meeting minutes from March 24th. Director Mossar moved approval; Director Gordon seconded, and approved 5-0.

3. APPROVAL OF AGENDA

The Board considered approval of the agenda. Director Duboc asked that Item 4.A. (Consent Calendar item) be pulled and placed within regular business. The item was placed between 6.B and 6.C. on the agenda. Director Mossar moved approval of the change in the agenda; Director Gordon seconded, and approved 5-0.

4. Moved as stated above.

5. PUBLIC COMMENT– **Public comment on items not on the agenda.** Mr. Shannon Pekary, an East Palo Alto resident, presented the Board a letter and a series of pictures taken that morning. He said he lived on Cypress Street and his house was situated against the levee. He said his street was flooded that morning. He said the problem was not that the storm drains were clogged but rather the pumping station was turned off.

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Mr. Pekary said that he wanted to make certain that the pumping station was included in the plan. He said the water comes from his neighborhood and pumped across the creek to pumping station. He said he believed that the pump station was in Palo Alto. He said he is worried about this kind of flooding. He said this affects homes near the levee at Cypress Street, Beech Street and Garden Street.

Mr. Pekary said this problem needed to be fixed. He said he wanted to put in on the JPA's radar.

Joe Teresi said he wanted to clarify that the pump station is city of East Palo Alto and not the city of Palo Alto.

6. REGULAR BUSINESS

A. Executive Director Report-

- COE project Updates 905(b) / Recon Report update
- Next steps – Project Management Plan and Feasibility Cost Share Agreement preparation
- Report on meeting with State and Federal Regulatory Agencies
- Discussion/question & answer session on possible expansion of project boundary to include areas of tidal flooding. Representatives from the COE project team and the Salt Pond Restoration project will be in attendance.

Ms. D'Agosta said the 905(b) document for the Reconnaissance study was approved and accepted by the Army Corps of Engineers (COE) within the last week. She said the COE indicated a positive cost/benefit ratio for a flood control project on San Francisquito Creek. She thanked the COE team for speeding this through the process over the last two months.

Director Mossar said the JPA was very grateful for Congresswoman Eshoo's efforts. She said the Congresswoman's work in bringing about this result should not be understated.

Chairperson Zlotnick commended Executive Director D'Agosta for her diligence and commitment to this project. He also thanked the members of the COE Project Management Team for their good work, too.

Chairperson Zlotnick asked Ms. D'Agosta about next steps for the project.

Ms. D'Agosta said the next task would be to finalize the Project Management Plan (PMP). She said the COE Project Management Team would provide monthly updates as they move toward completing this document. Ms. D'Agosta envisioned this last stage of the Reconnaissance phase being complete within four months.

Ms. D'Agosta said another task would be to take on the first steps into the Feasibility phase by creating a draft of the Feasibility Cost Share Agreement (FCSA) and a sub-agreement between members of the JPA. She said she would work with the COE Project Management Team and JPA Legal Counsel on this draft document. She said this would come back to the Board in September.

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Ms. D'Agosta said the COE Project Management Team met with the various State and Federal Regulatory agencies earlier in the month. She said the meeting was very positive and most of the regulatory participants are very familiar with our watershed.

Ms. D'Agosta said JPA was following the SCVWD-model of engaging these members early in the process to flag potential challenges (permitting and other issues) that may come up as a result of the project. She said the next meeting of the newly established Regulatory agency team would be July 6th.

Chairperson Zlotnick said the SCVWD pays for a Regional Water Quality Control Board staff person and a State Fish and Game biologist. He said this agreement allows the SCVWD to move things along faster than normal. He asked if the JPA was utilizing these individuals in the process.

Ms. D'Agosta said Regional Board's Richard McMurtry, a second Regional Board staff person covering San Mateo County, and a State Fish & Game person did attend the meeting in April.

Director Mossar said the NOAA Fisheries letter [included in the staff report] stated, "the San Francisquito Creek watershed is one of the Bay [areas] most important steelhead populations." She said this language was emblematic how essential this project is. She said this fact is important to remind each person every now and then.

Ms. D'Agosta gave a presentation on the important points for consideration on the possible inclusion of tidal flooding in the project boundary and then a discussion followed. [This presentation was made available online on the JPA webpage under "Army Corps of Engineers Projects."]

Chairperson Zlotnick opened the discussion to audience members and the public.

Ms. Xenia Hammer said she is very concerned about the ongoing talk about expansion of the GI project to include tidal flooding. She said adding this complexity to the project is likely to increase costs and extend the completion timeframe for the GI project. She said COE resources were already stretched thin and further expanding this would be irresponsible.

Ms. Hammer said the funding agreement for the JPA was based on the mission to prevent flooding on San Francisquito Creek. She said if the project boundary is widened and tidal flooding included, the JPA funding agreement would need to be negotiated.

Ms. Hammer said tidal flooding in Mountain View, East Palo Alto, Palo Alto and Menlo Park were worthy problems to prevent. However, she said the JPA was not the right agency to take all this on. She added the five of the JPA's objectives listed on the JPA's webpage address the San Francisquito Creek only. She said the JPA needed to complete these objectives before expanding its scope.

Mr. Arthur Keller said he is one of the 3,200 Palo Alto homeowners in the floodplain of the bay. He said each homeowner in this area pays \$700 per year for flood insurance because of

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the potential for flooding. He said there would be a considerable amount of money needed to be raised to address flooding from San Francisquito Creek and the various levees.

Mr. Keller said the additional protections provided by tidal flood protection would increase the likelihood of passing a bond measure. He said piecemeal fixes would not solve the problem. He said this should move quickly to rectify these matters in a comprehensive fashion.

Ms. Janice Lera-Chan (COE Project Manager) said the COE could not speak to issues of cost and schedule increases yet. She said these would be addressed once the PMP was complete. She said the issue of commingling (where tidal and fluvial flooding interact) would need to be addressed in the study. She said the JPA Board needed to give the COE an indication of the areas they would like the COE to study.

Director Duboc asked whether the COE would coordinate with FEMA on these projects.

Ms. Lera-Chan said the COE would be working very closely with FEMA. She said the COE would follow FEMA's criteria so that when the COE asks FEMA for a map revision everything will proceed smoothly.

Director Duboc asked whether the COE project on San Francisquito Creek could guarantee those in the FEMA tidal flooding zone could be removed from that FEMA flood zone designation.

Ms. Lera-Chan said that depended on whether the JPA did a project that included tidal flooding.

Mr. Henri Langlois (COE branch chief) said when the COE does a study they come up with a number of alternatives, not just in the areas to be protected, but also in the level of protection provided. He said the federal government has an obligation to find the best possible economically viable project.

Mr. Langlois said the COE might find a level of protection that is lower than the threshold point that FEMA uses to take local residents out of the floodplain. He said this would be understood during the Feasibility study. He said in answer to Director Duboc that even if the COE recommended a project there was no guarantee that everyone could be taken out of the FEMA floodplain.

Chairperson Zlotnick asked whether there was an option for the local sponsor to cover that extra level of protection.

Mr. Langlois said there was an option to "buy up" to raise the level of protection thereby taking everyone out of the floodplain. He said that would be a more cumbersome option but that it is certainly a possibility.

Director Duboc said that was a great option. She said this whole project would be difficult to pull off without this "buy up" option at our disposal.

Director Abrica asked whether FEMA could be brought into the process sooner.

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Mr. Langlois said the COE would certainly coordinate with FEMA throughout the study. He said the COE knows FEMA's requirements. He said the COE would have a better answer after the hydraulic data is analyzed in the Feasibility study.

Director Abrica asked at what point Board Members could offer residents assurances their properties would be removed from the FEMA floodplain map.

Mr. Langlois said as the COE comes up with plans to solve these issues; we will communicate them to you.

Chairperson Zlotnick said the COE could not guarantee FEMA floodplain changes as part of their project.

Director Mossar said FEMA sets the standard for residents either paying for flood insurance or not in a zone. She said if the JPA builds a project on San Francisquito Creek that meets FEMA standards then we qualify.

Chairperson Zlotnick said that, at this point, the Board has no way to determine how far to go with the boundaries. He expected that some basic analysis could be done to pick some logical locations along the creek geography that serve as parameters for the study area. He said staff should bring back various options where the boundary could be before the decision can be made.

Ms. D'Agosta said the JPA Project Management Team has begun to look at those issues. She said this analysis could be done on the staff level and brought back to the Board at the next meeting. She said this was the appropriate action due to the COE's limited amount of funds. She said those funds should be conserved for when they are needed in the months ahead.

Chairperson Zlotnick said the critical factors to answer before a decision could be made were: what impacts will this have on the timeline? how much will this raise the cost of the project? can these projects be melded or phased together?

Chairperson Zlotnick said he would need these items answered so the Board does not have to approach a decision blindly. He said it would be important to work with Mr. Steve Ritchie on how this project works together with the Shoreline study.

Kent Steffens said the limits of the boundaries were discussed at the last Board meeting. He said the Board gave direction to staff that the basic limits were the jurisdictions of the three cities that are member agencies of the JPA. He said if the JPA was going to look at tidal flooding they should look at it for the entirety of Menlo Park, Palo Alto and East Palo Alto.

Chairperson Zlotnick said Mr. Steffens was correct that that was the general direction things seemed to be moving toward looking at the three cities but the JPA needed to wait until staff brought back some initial analysis on this before any conclusions could be made.

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Mr. Steffens said the JPA was not going to have any good information on cost/benefits until the Feasibility study was conducted. He said the JPA needed to take an initial look at the entire area and then it could be scaled back if the results indicated that should be the case.

Director Mossar said not all the Board Members were present through the entire conversation at the last meeting. She said no decision was made last month and it would not be accurate to say we endorsed a preliminary look at this entire length of the creek yet. She said we went back & forth and have not come up with an answer on this.

Director Mossar said one of the earlier speakers stated that the JPA would have to renegotiate the cost share agreements if the agency chooses to include the tidal flooding boundaries. She said these would need to be done anyway since the JPA has no cost share agreements for implementation beyond the Feasibility stage.

Ms. D'Agosta said when the SCVWD and the San Mateo County Flood Control District each set aside \$1.5 million dollars for the Feasibility study [JPA Board Resolution on September 27, 2001] there was no consideration of including tidal flooding.

Director Mossar asked whether renegotiating the cost share agreement would be an issue for the Feasibility stage.

Ms. D'Agosta said we would not know this until the PMP is finished during the August/September timeframe. She said, at that time, we would have a better understanding of what the estimated increased workload, cost, and timeframe with tidal flooding included.

Chairperson Zlotnick said the agenda for the meeting in May states there will be a decision on the project boundary question. He asked whether this was going to be possible.

Ms. D'Agosta said this would be for the PMP process.

Chairperson Zlotnick asked whether the JPA could withdraw their decision after that point.

Ms. D'Agosta said Board would still have that option.

Chairperson Zlotnick said the Member Agencies could bring up issues during the COE Project Management Team meetings. He asked when those meetings are in May.

Ms. D'Agosta said the next COE Project Management would be May 4 and 18th.

Director Abrica introduced Mr. Anthony Docto, who joined the City of East Palo Alto in the last month, as their new Public Works Director.

6 B. Quarterly Financial Report

Ms. D'Agosta said the third quarterly financial report was being presented to the Board for their acceptance.

The Board considered approval for the acceptance of this item. Director Gordon moved acceptance, Abrica seconded, and approved 5-0.

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6. - Item 4A. [Moved from Consent Calendar to this order]. *Approve Resolution 05-04-28 to accept funding from the SWRCB .*

Director Duboc said the JPA's receiving this money was great but she was concerned about long-term maintenance. She said much of this property was in Menlo Park. She asked whether a long-term maintenance plan could be developed for the areas considered private property.

Ms. D'Agosta said the contract for this funding would not link the JPA to maintenance of these properties now, or in the same way that the COE project requires. She said the JPA was not agreeing to any long term maintenance by accepting these funds.

The Board considered approval of this resolution. Director Duboc moved approval of this item, Director Abrica seconded, and approved 5-0.

6 C. Future Meeting Schedule and Draft Agendas

Ms. D'Agosta said a future meeting schedule and draft agendas item was for information only.

Chairperson Zlotnick asked whether the August cancelled. He asked Ms. D'Agosta to report back at the May meeting whether or not the August 25th Board can be cancelled.

7. BOARD AND ASSOCIATE MEMBER REPORTS - Agendized reports from Board and/or Associate Members.

A. Watershed Council –Celebration of new watershed map published by the Oakland Museum of California

Ms. Pam Sturner said the Watershed Council was planning an event on Wednesday, May 11th at USGS that celebrated the release of a new watershed published by the Oakland Museum.

Ms. Sturner said the producers of this map will give a talk that day entitled "*Mapping San Francisquito Creek: A story of a local creek in the age of modern Cartography.*" She encouraged all Board members and members of the public to attend.

Chairperson Zlotnick congratulated Ms. Sturner on her recently being named to the SCVWD's Environmental Advisory Committee.

8. BOARD AND ASSOCIATE MEMBER MATTERS - Non-agendized comments, requests, or announcements by Board and/or Associate members, no action may be taken. None

9. ADJOURNMENT

Chairperson Zlotnick adjourned the meeting at 7:12 p.m.

Minutes Prepared by: Andrew Kloak
Clerk of the Board