

MINUTES
SAN FRANCISQUITO CREEK
JOINT POWERS AUTHORITY BOARD
25 March 2004

Chairperson Bay called the meeting to order at 6:04 p.m. at the City of Menlo Park Council Chambers, 801 Laurel, Menlo Park, California.

1. Roll Call

Members Present: Chairperson Bay, City of East Palo Alto
Director Kinney, City of Menlo Park
Director Mossar, City of Palo Alto
Director Tony Estermera, Santa Clara Valley Water District,
Alternate

Members Absent: Director Zlotnick, Santa Clara Valley Water District
Director Jacobs Gibson, San Mateo County Flood Control
District

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

Associate Members Absent: None

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

Others Present: Kent Steffens (City of Menlo Park); Beau Goldie (SCVWD);
Debra O'Leary (COE Liaison to the City of East Palo Alto); Joe
Teresi (City of Palo Alto); Ann Stillman (San Mateo County
Flood Control District); Mary Carey Schaefer (Palo Alto
Resident); Christopher Harris (Children's Health Council-Palo
Alto); John Schaefer (Palo Alto Resident); Jeff Shore (Duveneck
Saint Francis Neighborhood Assn.); Tom Rindfliesch (Crescent
Park Neighborhood Association); Ginger Holt (Menlo Park
Resident); Vivian Blomenkamp (League of Women Voters Palo
Alto); Jerry Hearn (Acterra); Art Kraemer (Palo Alto Resident);
Sarah Divine (Menlo Park Resident); Catherine Norton (Menlo
Park Resident); Haus and Lotte Dolezalek (Menlo Park
Residents); Michael & Tess Kaurwin (Menlo Park Residents);
Art Stouffer (Palo Alto Resident); Althea Tomijima (Menlo Park
Resident)

2. APPROVAL OF THE March 4, 2004 SPECIAL MEETING MINUTES

Board members considered approval of the March 4th meeting minutes. Director Mossar moved approval of the minutes, Director Estermera seconded, and approved 4-0.

3. APPROVAL OF AGENDA

Chairperson Bay said there were some changes to the agenda. The Board considered removing item 6.F. in Regular Business [Power Point Presentation: Draft Five Year Project Budget] and

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replacing it with a new item [Flood Control Subvention Program Letter.] Director Mossar moved approval of the agenda as amended, Director Kinney seconded, and approved 4-0.

4. CONSENT CALENDAR- None

- 5. PUBLIC COMMENT** – *This is a limited time for public to comment on items not on the agenda.*
Jerry Hearn said Phil Chang had left his position and the search yielded Ms. Pam Sturner as the new Watershed Council Coordinator. Mr. Hearn introduced Ms. Sturner to the Board.

Ms. Sturner said she was looking forward to having a good working relationship between the Watershed Council and the JPA.

Chairperson Bay said, as the agency moved into its fifth year, he wanted to support and respect the associate members that help the JPA. He said his commitment, as chairperson would be to continue to make an effort to give the Watershed Council and Stanford University regular consideration on the agenda during the *Board and Associate Member Matters* item each meeting.

Director Kinney said he wanted to have the JPA send a letter to Phil Chang thanking him for his service.

6. REGULAR BUSINESS

A. Director's Report

Ms. D'Agosta said she had received official notice from the State Department of Conservation that the \$216,583 grant application jointly submitted by the JPA and the Watershed Council was approved. She said the JPA would receive \$122,695 in grant funding over the next three years.

Ms. D'Agosta said the citizen support letters for the Feasibility Study funding were available on the back table.

Tom Rindfleisch said he would like to get an electronic version of this template.

Ms. D'Agosta said those would be sent out the next day through the email list and be put on the website.

Ms. D'Agosta said the fifth anniversary celebration of the JPA would take place in September. She said a committee by member agency staff and citizens was forming to plan the event.

Director Kinney said the committee should work to keep the event simple. He suggested the tone of any celebration should be low-key as some feel the agency has a long way to go in their progress.

B. COE Project Updates

Ms. D'Agosta said that the U.S. Army Corps of Engineers (COE) had notified her that their findings indicated that the CAP 205 project was not suitable for Reach One. She said the COE offered the JPA a chance to revisit the assumptions they [COE] had made in their analysis. Ms.

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D'Agosta stated the Management Team and selected Neighborhood Team members went to the San Francisco COE offices on March 11th.

Ms. D'Agosta said new information was given to the COE so they could reevaluate their assumptions. She said that with the new information, the COE would hopefully find a 205 project in Reach One but that was not guaranteed.

Director Kinney said he was concerned that the COE was working with different data than what the JPA had given them. He said this meeting with the COE seemed to be late in the process.

Ms. D'Agosta said the meeting was not late in the process when you consider that the initial assessment is typically a 12-18 month timeframe. She said the COE started the process in October, so for the COE to inform us that things were not going the right way in February, is a reasonable time period. Ms. D'Agosta said the information the COE received from the JPA was all the current information the JPA had.

Ms. D'Agosta said the COE has a project manager, a project planner, a hydrologist, and an economist working together as a team on this project. She said information had not been shared or reviewed equally within the team.

Director Kinney said he wanted a document that summarized what information the COE missed. He said he wanted a letter from Chairperson Bay that challenged the COE to revise their assumptions based on the information given to them at the meeting.

Director Mossar asked Ms. D'Agosta whether the information given to the COE on March 11th was previously given to the COE.

Ms. D'Agosta said everything had been given to them before except videos of the 1998 flooding.

Ms. O'Leary said the COE used outdated FEMA maps that did not include 1998 information in them.

Director Kinney said if there were errors on the COE's part, they should be called out so they don't happen again. He said that the letter from Chairperson Bay needed to point out the shortcomings of their [the COE's] analysis.

Chairperson Bay opened the floor for members of the public to comment on this issue.

Mary Schaefer said she was stunned that the COE didn't have the information they needed. She said the Neighborhood Team did so much work on this and she wanted to make sure this information would be utilized.

Jeff Shore said he was not surprised the COE Team perceived the JPA was trying to address a larger fix in focusing on Reach One. He said the Reach One project was always vulnerable to the idea that the JPA was proceeding up the creek with a series of CAP-like projects.

Mr. Shore said possible setbacks like this one shouldn't slow the JPA. He said the JPA should craft a new CAP 205 project that is a stand-alone project in order to get the money.

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Mr. Rindfliesch said nearly one year had past since he got up before the Board advocating the CAP 205. He said he didn't feel the JPA was much further along since the project was approved in May of last year. He said this was late in the project's development to find out that the COE didn't have everything they needed.

Mr. Rindfliesch said Jay Kinberger, the COE Project Manager, opened the meeting on March 11th by saying this meeting should have happened months ago. He said the COE's analysis indicated that there would be no flood damage in the Reach One area from a 9,500 cubic feet per second (cfs) one hundred-year flood occurrence. He said he couldn't understand how the COE came to this conclusion. He said this was ludicrous because the Chaucer Bridge was assessed to have a 6,000 cfs capacity and all the water above 6,000 cfs amount would never reach East Palo Alto.

Mr. Rindfliesch said bodies at rest tend to stay at rest without some force behind them. He said we need to put positive pressure on the COE and that includes the Board authorizing Ms. D'Agosta to be more aggressive. He said the JPA Board needed to be thinking about Plan B.

Mr. Rindfliesch said we need to be aggressive about planning this. He said the project cost are within the financial resources that the community can afford. He said he is disappointed by the lack of professionalism of the COE.

Ms. D'Agosta said she was not content with their [COE's] level of participation and professionalism either, but the reality she hears from them is the COE is an agency that is called upon to address the nation being at war and they have suffered large-scale budget cuts as well as staff shortages.

Ms. D'Agosta said our approach needed to be diplomatic. She stated the JPA has a tremendous amount of federal funding at stake as the CAP and the GI is still in the authorization/appropriations stage. She said the COE has a memory of the history of starts and stops in the watershed community over fifty years and they, too, want to see a fix to our flooding.

Director Mossar said there *were* many discussions about Plan B last year and, in a fundamental way, the GI was our Plan B. She said if we hear from the COE that the currently discussed CAP 205 isn't suitable for our creek, and then we should be ready with a formal Plan B.

Ms. D'Agosta said the COE presented an alternative scenario at the March 11th meeting about the possibility to construct and pay for a lesser flood control fix, in which the community would pay the difference to make it make it capable of protecting against a 100-year flood. She said those options need to be fully investigated.

Director Kinney said he understood the staff report was generated by the whole team and was forwarded to Mr. Jay Kinberger. He said the Board was authorizing Chairperson Bay to write a letter that would point out the JPA's stance on the initial review. He requested that the letter should make clear the urgency of this project.

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Chairperson Bay said this has broadened his perspective about this process. He said the JPA was being proactive about this in terms of regular contact with the COE but there was an opportunity to continue to apply pressure.

Chairperson Bay said Ms. D'Agosta should generate a letter to the COE for his signature.

Director Kinney asked Ms. D'Agosta whether the COE had retreated from their earlier enthusiasm. He asked if the COE was trying to not do a project in the watershed.

Ms. D'Agosta said she was confident that the COE was not going to prematurely end our project.

C. Report on Bank Stabilization and Revegetation Demonstration Project and CAP 14 Project Recommendation

Ms. D'Agosta said this item required the Board's authorizing the Executive Director to submit a letter to the COE-SF Office to request a CAP 14 project for Children's Health Council/ Norton stretch of the SF Creek.

Ms. D'Agosta said Kevin Murray was going introduce the consultants on this project.

Mr. Murray said this item would include an update and a presentation on the demonstration project. He said in 2001 the JPA initiated a Bank Stabilization and Revegetation Demonstration Project as the next step to the 2000 Bank Stabilization and Revegetation Master Plan.

Mr. Murray asked Mr. Steve Seville and Mr. Ed Wallace from Northwest Hydraulic Consultants to speak about the prioritization and design work they conducted on the project.

[Mr. Seville and Mr. Wallace gave an overhead Powerpoint presentation on the project.]

Chairperson Bay asked for public comment on this item.

Christopher Harris said his organization-Children's Health Council-was a facility for children facing developmental and behavioral challenges. He said their playground was situated very close to the bank of the creek and it would likely be lost in the case of another high water situation like 1998.

Mr. Harris stated he was supportive of the project because the protection it offered.

Jeff Shore said he wanted to know the difference between the CAP 14 and the CAP 205 in financial terms.

Ms. D'Agosta said the CAP 14 had a limit of one million dollars, while the CAP 205 guaranteed up to ten million dollars.

Mr. Rindfleisch said he was impressed with the presentation. He asked if we know the new trees planted in the bank restoration will stay in place and what kind of failure analysis has been done on this.

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Mr. Wallace said they did extensive failure analysis that determined the trees would remain in place.

Director Kinney said he wanted to know how this project would be structured financially.

Ms. D'Agosta said the grants are in place for the local match, and local property owners have agreed to put in money. She said the potential CAP 14 project would be at least two years away from construction.

Director Mossar said she was concerned whether limited COE staff working on the GI and the 205 would be drawn away by activities on the CAP 14. She said she would like a COE person to give a presentation on this.

Ms. D'Agosta said she thought the COE could do all these.

Board members considered approval of authorization of JPA Executive Director to submit a letter of request to the COE-SF Office for a CAP 14 for the Children's Health Council/Norton stretch of San Francisquito Creek. Director Kinney moved approval, Director Mossar seconded, and approved 4-0.

D. Ira Bonde Bridge - Fish Passage Cessation

Mr. Murray said there had been significant occurrences related to this project since the last staff report on it in June 2003. He said staff was recommending the project be brought to a halt. He said there were several reasons for this including the firm [Water Consulting Inc.] doing the consulting work had dissolved; no member agency had stepped up to be the CEQA or construction lead; the cost of the procurement of the permits was much more than originally estimated.

Mr. Murray said the contract with the Department of Fish and Game (DFG), which funded the Water Consulting Inc. work, was scheduled to expire on April 15, 2004 and the JPA could not produce the final product before that deadline. He said supplemental funding would be needed to move the project forward.

Mr. Murray said the total grant award was \$15,516, with \$9900 spent, and the remaining money \$5616 would remain in the DFG funding pool.

Director Mossar acknowledged this project was beset by a number of challenges, but said stopping this project was a disappointment. She said leaving money in hands of the state didn't make sense. She said the JPA had to find a way to use the remaining \$5616 of grant funding.

Mr. Murray said even if the JPA could do it before the deadline, the \$5616 was not enough money produce a product that would move things toward construction that DFG had asked for additional work to be done.

Director Kinney asked how much money would it take to accomplish this project.

Ms. D'Agosta said a minimum of \$300,000 for construction.

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Mr. Murray said this would be a significant project. He said there was a great deal of disagreement about the project's design and the best way to proceed for forward.

Director Mossar said the JPA needed to leverage the remaining \$5616 dollars with money that the Watershed Council had for this project. She said this pooling of resources would produce a deliverable to complete this project.

Director Kinney said he wanted the JPA Management Team to look at this further and to see if there is interest and ability to take this project on.

Ms. Sturner said that perhaps a more modest project should be looked at for Bonde Weir structure.

Chairperson Bay said the Board doesn't want to be a part of a failed project and be known for returning other people's money. He said since the DFG sounded flexible, and asked if a reasonable solution could be hammered out.

Mr. Murray said DFG displayed enthusiasm but not flexibility because the contract was about to expire. He said DFG asked for the money to remain in the pool if the deadline could not be reached.

Director Mossar said she was hearing about this for the first time in this staff report, which came three weeks before the project deadline was set to conclude. She said the Board is clearly interested in this. She said this has to be a learning experience. Director Mossar said she was disappointed that she was never engaged to take a bigger role on this.

Kent Steffens said this project design had gotten beyond the JPA and Member Agencies. He said there was a simpler way to move this project forward. He said he would like to encourage the Watershed Council to investigate smaller structural solutions for this location that would involve fewer landowners.

Mr. Steffens offered to work to help craft a simpler approach and design so that that the project could be completed.

Chairperson Bay said the JPA was not in position to invest on this because of limitations in financial resources. He said the JPA needed to be better about doing less and having more boundaries to protect the agency's limited capacity.

Chairperson Bay said completing this project by April 15th was not going to happen because this project was big, expensive, and complicated. He said however, this was a priority that would eventually be done.

The Board considered allowing the April 15th deadline to pass and contract to end. The Board considered to have staff generate recommendations and alternatives for this project at the May meeting. Director Mossar moved approval on both considerations, Director Estermera seconded, and approved 3-1. Director Kinney voted no.

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E. FY 04-05 Budget

Ms. D'Agosta said she wanted the Board to Adopt the FY04-05 JPA Operational Budget. She said the member agency's budget contribution was \$67,788 and that there were several assumptions called out in the staff report.

Director Mossar said a discrepancy right off the bat was the assumption that we can raise the member agency contribution by \$5,000. She said she understood the increase was in the area of reserves and, that the agency needed reserves, but a two-month reserve should be enough.

Director Mossar said the JPA needed to do some adjustments to the budget. She stated the reserves contained \$70,000 in reserves for PERS and recommended borrowing on that. She said she cannot allow this agency to get larger, given that her own [City of Palo Alto] will not grow.

Director Kinney said he objected to the \$22,600 for financial advisors. He said he would resist spending this much money for this service when it could be done for less than \$6000.

Ms. D'Agosta said the JPA needed this financial advising for the growing complexity of record keeping and to position the agency to best to work the federal government.

Director Kinney said the \$20,000 for the office lease seemed too high as well. He said had not had dialogue with his City Manager on this but he would to discuss this with him.

Director Estermera said the JPA should look at what Menlo Park would pay out in cash/out of pocket for the inkind services for the JPA. He said that amount is what the JPA should pay the city.

Ms. D'Agosta said the JPA could look at the out of pocket expenses paid by the City of Menlo Park for the JPA being in the space.

Chairperson Bay said he spoke to Director Jacobs Gibson earlier in the day and he reported she was not in a position to approve a budget with a member increase. Chairperson Bay suggested line 514 titled *Project Consultants* be trimmed. He said take the whole \$48,000 in that category and put it in reserve.

Director Estermera said Cost of Living Adjustments (COLA) is important and should not be considered as a contingency. He said he supported it.

Chairperson Bay asked about timing of approval of the budget.

Ms. D'Agosta said she needed direction on maintaining COLA, altering the *Financial Advisor* amount, moving the *Project Consultants* amount to reserves, and reducing the City of Menlo Park amount for office space.

The Board considered tentative approval of the FY 2004/2005 Operational Budget at \$62, 850 per member agency [the same contribution as 03/04 levels] and the budget would come back to the Board for formal approval at the April 22nd meeting. Director Mossar moved the item, Director Kinney seconded, and approved 4-0.

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F. Flood Control Subvention Program Letter

The Board considered approval of the Flood Control Subvention Program Letter that would go to Senator Sher and Assembly member Simitian as well as to others on the budget committee. Chairperson Bay moved the item, Director Kinney seconded, and voted 4-0.

G. Clip File

Newspaper coverage clips going back to November 2003 were included in the board packet.

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

None

8. BOARD AND ASSOCIATE MEMBER MATTERS - *Non-agendized comments or announcements by Board and/or Associate members, no action may be taken*

Ms. Sturner said the Watershed Council had 60 individuals come out on their workdays in February. She said a second invasive removal day was coming and that information was available on their website.

Chairperson Bay said he took a very enlightening tour of some MidPeninsula Regional Open Space District (MROSD) sites recently. He said he was impressed with what they have done.

9. ADJOURNMENT

Chairperson Bay motioned to adjourn the meeting, Director Kinney seconded, and approved 4-0. The meeting ended at 8:50 p.m.

Minutes Prepared by:

Andrew M. Kloak
San Francisquito Creek Joint Powers Authority