

MINUTES
SAN FRANCISQUITO CREEK
JOINT POWERS AUTHORITY BOARD
22 May 2003

Chairperson Bay called the public meeting to order at 6:07 p.m. at the City of East Palo, Council Conference Chambers, 2415 University Avenue, East Palo Alto, California.

1. ROLL CALL

Members Present: Director Bay, City of East Palo Alto
Director Jacobs Gibson, San Mateo County Flood Control District
Director Kinney, City of Menlo Park
Director Mossar, City of Palo Alto
Director Zlotnick, Santa Clara Valley Water District

Members Absent: None

Associate Members Present: Phil Chang, Watershed Council
Chris Christofferson, Stanford University
Michael Fox, Stanford University

Associate Members Absent: None

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

Others Present: Greg Stepanicich (JPA Legal Counsel); Jennie Micko, Pat Showalter (Santa Clara Valley District); Lee Duboc, Kent Steffens (City of Menlo Park); Glenn Roberts, Joe Teresi (City of Palo Alto); Chuck Bergson (City of East Palo Alto); Debra O'Leary'Leary (COE Liaison to East Palo Alto); Neil Cullen, Brian Lee (San Mateo County Flood Control District); Karen White, Jeff Shore (Duveneck Saint Francis Neighborhood Association); Stuart Bowen (Palo Alto Resident); John C. Green (East Palo Alto Resident); Xenia Hammer (Palo Alto Resident); Janet Davis (Menlo Park Resident); Glenna Violette (Palo Alto Resident); Steve Bisset (Palo Alto Resident); Thomas Rindfleisch (Palo Alto Resident); Art Kraemer (Palo Alto Resident); Viv Blomenkamp (League of Women Voters Palo Alto); Stanley R. Smith (Palo Alto Resident); Ginger Holt (Menlo Park Resident); Court Skinner (East Palo Alto Resident); Kelly Ferguson (Menlo Park Resident); W. Kennedy (Palo Alto Resident); N. Chamberlain (Palo Alto Resident); R. Bickele (Palo Alto Resident); Jim Wiley (Menlo Park Resident); Marilu Serrano (East Palo Alto Resident); Keisha Evans (East Palo Alto Resident); Walter Lowenstein (Palo Alto Resident); Jim Heady (Palo Alto Resident); Matt Stoecker (Woodside Resident); Robert Allen (East Palo Alto Resident); Anthony Bonora (Family Farm Road Resident); Nerissa Pacio (SJ Mercury News); Bill D'Agostino (Palo Alto Weekly); Tammy Min (Palo Alto Daily)

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2. PUBLIC COMMENT - None

3. APPROVAL OF AGENDA

Ms. D'Agosta stated that she wanted to move Item 6.B. (Acceptance of Staff Recommendations on the CAP 205 project) to the last item of Regular Business. The Board approved the agenda with the change of Item 6.B to follow Item 6.E.
Moved by Director Mossar, seconded by Director Kinney, and approved 5-0.

4. CONSENT CALENDAR-None

5. APPROVAL OF MARCH 27, 2003 SPECIAL MEETING MINUTES

Board members considered approval of the minutes from March 27, 2003.
Moved by Director Mossar, seconded by Director Kinney, and approved 5-0.

6. REGULAR BUSINESS:

A. Consultant Review of Searsville Sediment Report (Report) -Accept Staff Recommendations

Director Mossar said she had a conflict of interest on this issue because her husband works with Stanford University and therefore had to leave the room while the item was discussed. Director Mossar left the room at 6:15 p.m.

Ms. D'Agosta stated that Stanford University-Facilities Dept. was awaiting acceptance from the board that the Report was complete and defensible. She stated the Board was being asked by Stanford, if the impacts identified in the study are tolerable and acceptable to the downstream environment.

Stating the origination of this item derived from a letter and an addendum dating back to 2000, at which time. Stanford agreed to proceed with a request for state and/or federal funding to support a feasibility study for lowering or removing the dam, if the Board accepted and agreed with the findings in the Report.

Reading from the staff report on this item, Ms. D'Agosta recapped that a workgroup was formed from July-Sept. 2001 to review the information in the draft Report. The workgroup recommended that Stanford work with the State Department of Water Resources on future studies, and that an objective professional review by an engineering firm should be done.

In March 2003 the firm of Moffat Nichol Engineering had been retained to do such a review. The completed report by Moffat Nichol was attached for reference.

Ms. D'Agosta stated the Board had two staff recommendations in front of them: Request A "Accept the findings of the Study as complete and defensible with regard to fulfilling the RFP and described scope; (Legal counsel, Greg Stepanicich, requested that the word 'defensible' be stricken from the recommendation. This was done after some discussion.); Request B Conclude that the potential impacts identified in the study as caused by the lowering or complete removal of the dam is *NOT* a tolerable increase in sediment in the downstream environment.

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Chairperson Bay asked to hear from members of the public.

Phil Chang, Director of the Watershed Council (Council) stated that the Council's Steelhead Restoration Steering Committee put forward a request that the JPA change the wording in Request B of the staff recommendation. He said the first change was to add the words 'without mitigation' after the words 'not tolerable'. He said this change would be consistent with the wording in the Moffat Nichol report. The second change was that the JPA should include additional language to 'identify opportunities to manage sediment in the watershed especially upstream of Searsville'.

Mr. Chang said he wanted to stand on record that these changes should be made as outlined in the letter by the Watershed Council (handed out). He said Ms. Trish Mulvey wanted to withdraw her letter and put her name behind the Watershed Council letter.

Matt Stoecker said he would ask the board to specifically omit any wording in Request B that included 'dam removal'. He said the Study specifically excluded any investigation of dam removal and felt discussion of dam removal was very premature since no one studied the impact of dam removal. He said the second part of his letter was something he wanted to withdraw and align his position behind with the Watershed Council letter.

Chairperson Bay asked Mr. Stoecker if the option of lowering the dam was acceptable.

Mr. Stoecker said he would not object to lowering the dam. He said lowering the dam or doing nothing were the only alternatives he advocated.

Ms. Janet Davis, a Menlo Park resident, said the area she lives in would be most impacted by the implications of the Report. She said the creek is filling up with sediment and wanted to know what kinds of mitigation would occur with lowering or removal of the dam.

Robert Allen stated that he was not certain if members of the board had visited Searsville Lake, however he visited it and was impressed with the dam. He said Stanford removed redwood weir boards in the 1990's by eight feet so that now the water runs over the cement dam. He said he was for maintaining the dam by dredging the lake and hauling the material out to the bay.

Chairperson Bay opened the discussion up to board members.

Director Kinney stated that the Moffatt Nichol Engineering study said the Report findings did fulfill the RFP, but had failed to address the issues of long-term flooding and this is what the board should be most concerned about.

Ms. D'Agosta stated Director Kinney was correct that the Report RFP did not include looking at the impacts of long-term flooding. She stated that to fully understand the impacts, another study was needed.

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Director Kinney wondered if the Watershed Council was asking the JPA to look at managing sediment, the question he had was where the JPA should go from here.

Ms. D'Agosta, in response to the Watershed Council's recommendation to manage sediment stated that the JPA is currently underway with a watershed-wide sediment management study with eight other co-permittees, representing all the jurisdictions of the watershed.

Ms. D'Agosta stated that the results of this sediment study would conclude with a plan for managing sediment. She stated that as the JPA goes through with the GI study, the sediment issue would also be taken under consideration in that effort.

Director Kinney said he understood Request A (of Stanford to the JPA), but asked Ms. D'Agosta if Request B indicated future studies on sediment.

Ms. D'Agosta stated that Request B did not indicate future studies nor did she see the need for additional studies at this time.

Director Kinney asked what position Stanford University had on this.

Chris Christofferson said several years ago he asked the board to sponsor the study and felt it would be helpful to narrow down the focus. He said there is a big problem with Corte Madre Creek, which in 1998 contributed 192,000 tons of sediment into the lake.

Mr. Christofferson said we need to decide either to manage the sediment upstream where it is entering the creek or decide to increase the capacity of the lake. He said Searsville Dam has protected the downstream environment for almost one hundred years and asked whether we should manage the dam so it can last another hundred years. He said he would prefer management of flooding upstream.

Director Kinney asked if problems along Corte Madera Creek were causing flooding on Family Farm Road.

Mr. Christofferson said flooding on Family Farm Road was what started the discussion that led to the Report. He said Stanford University had spent several hundred thousand dollars to straighten Corte Madera Creek and keep sediment flowing down from the lake.

Director Kinney asked Mr. Christofferson what the implications were for further action on the dam itself.

Mr. Christofferson said that they had gotten to the point that the range of opportunities were so broad, it was hard to know what direction to move in. He said anything that narrows the options was a positive development and Stanford University wanted to bring this to closure.

Director Zlotnick said Mr. Stoecker's letter indicated that funding was available for additional studies on this issue. He asked Mr. Stoecker what the source of this money was.

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Mr. Stoecker said there was grant money available from the Department of Water Resources.

Director Zlotnick said he would favor the staff recommendation. He said assuming the GI study moves forward, this whole issue would be part of the CEQA process. He said if the awarding of the GI study were unsuccessful, the Board would revisit this issue to take further action.

Chairperson Bay said he wanted to hear Ms D'Agosta response to proposed changes in wording to Request B to drop the wording of "complete removal" of the dam.

Ms. D'Agosta stated the "complete removal" of the dam language came from the addendum to the original letter from Stanford University (1999) and again from subsequent meetings with Stanford. She stated she was simply responding to these requests.

Chairperson Bay said there are people in the future that would advocate strongly for the removal of the dam. He said that removal of the dam was not the question now but asked Ms. D'Agosta and Mr. Stepanicich if this action by the Board essentially was a decision to never remove the dam.

Ms. D'Agosta stated that this decision did not rule out the JPA taking action to study removal of the dam in the future.

Chairperson Bay asked Ms. D'Agosta her response to the recommendation by the Watershed Council to insert the words "without mitigation."

Ms. D'Agosta stated that Moffat Nichol indicated that *potentially* the downstream environment could tolerate sediment with mitigation, however, at this time there was no idea of what mitigation meant or its possibility is, so she did not include this wording.

Chairperson Bay said that leaves the door open regarding how much is too low for the dam to be lowered and becomes a discussion about mitigation. He concluded in understanding that staff was attempting to give a narrow response to an even narrower question.

Board members considered approval the staff recommendation as amended. It was moved by Director Zlotnick, seconded by Director Kinney, and unanimously approved 5-0.

Director Mossar returned at 6:45 p.m.

6.C. Periodic Year-to-date Financial Statement-*Information Only*

Ms. D'Agosta stated this was the second to the last financial statement for the FY 2002-03.

Director Zlotnick said his main concern was the deficits after three quarters. He asked Ms. D'Agosta to explain the employment taxes, additional costs from the CPA, and retained earnings.

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Ms. D'Agosta stated the employment taxes were in the previous budgets but not indicated as a specific line item. She stated the CPA has a \$300 invoice remaining and that the CPA was budgeted out of the legal category [\$50,000] for the current year.

Director Zlotnick asked if employment taxes were an item that was not budgeted for in last year's budget.

Ms. D'Agosta stated that was correct and it was not budgeted as a line item.

Director Kinney asked if the JPA spent \$32,000 per month to the end of the year, then was it reasonable to assume that the JPA would dip into retaining earnings for \$16,000 to cover the difference.

Mr. Murray said that was correct and the \$75,000 in retained earnings at the end of the year would be dedicated as liabilities for upcoming services in the next year.

6.

D. Requests for Member Agency Reports for June 26th Board meeting:

- i.) Santa Clara Valley Water District Ordinance #83-2.
- ii.) East Palo Alto Flood Plain Management Study.
- iii.) Santa Clara Valley Water District and San Mateo County hydraulic review and approval of Sand Hill Road Bridge project.

Ms. D'Agosta stated that she was requesting staff give member reports for the June 26th Board Meeting. She stated that updates on the SCVWD Ordinance #83-2, East Palo Alto Flood Plain Management Study and the Sand Hill Road Bridge project by SCVWD and SMCo. were the items for next month.

Director Jacobs Gibson said that the proper name was the San Mateo County Flood Control District (SMCF) not San Mateo County. She said SMCF had not reviewed a report yet on the Sand Hill Road Bridge.

Ms. D'Agosta stated that it was her understanding the SMCF had done a report. She stated she would work on who actually does the report and have them report for the next meeting.

Ms. D'Agosta stated she wanted to add the City of Menlo Park to give a report since they were the lead agency on the Menlo Park-Palo Alto Pedestrian and Bike Bridge.

6.

E. Clip File

Ms. D'Agosta stated the clip file was for information only and each board member had a copy.

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6.

**B. Report and Recommendation on Continuing Authorities Project (CAP) 205 project-
*Accept Staff Recommendations***

Ms. D'Agosta stated the Management Team had a power point presentation to give on the Continuing Authorities Project (CAP) 205 project. She stated the full report was contained in the agenda package and this was made available online on the JPA page on the City of Palo Alto website.

Ms. D'Agosta stated she could not say enough good things about the CAP 205 Management Team and the Neighborhood Team for helping this to come together.

[Ms. D'Agosta presented the background on the project; Professor Stephen Monismith presented the modeling of the water movement in the system; Kevin Murray talked about Reach Three, Skyline to Hwy 280. Kent Steffens talked about Reach Two, Hwy. 280 to Hwy. 101; Neil Cullen and Glenn Roberts presented Reach One, Hwy. 101 to San Francisco Bay.]

Ms. D'Agosta stated Management Team recommended 1). That the JPA request the Army Corps of Engineers (ACOE) conduct a CAP 205 project with a focus on the creek reach from West Bayshore frontage road to the Bay (Reach 1); and 2). The JPA request from the ACOE for FY2004, a CAP Bank Stabilization project.

Chairperson Bay opened the discussion to members of the public.

Kelly Ferguson said she supports the recommendation from staff. She said East Palo Alto and Menlo Park were not on the radar screen for flooding until just recently and the idea of analyzing peak flow was a moving target.

Chairperson Bay said the JPA would be looking at land use beyond an advisory role in the future.

Jeff Shore said it was not clear whether the JPA would / should go after bank stabilization or CAP 14. Also, he asked for an explanation of a specific criteria 'perceived loss of life' used by the Management Team.

Art Kraemer said he wanted to thank the JPA and said that although a flood control project is needed, the CAP is only the beginning.

Tom Rindfleisch said he wanted to support the recommendations. As a member of the Neighborhood Team, he said the approach by the JPA is exactly the right one. That it is supportable as a CAP project, and the logic is compelling. He said we need a number of solutions and this is one of them. He said we need to go ahead since the time is right.

Jim Wiley said he has no problem in working in Reach 1. He said he heard very little discussion on the natural habitat of the creek. He said Chaucer Bridge is not the problem and ultimately upstream solutions are needed.

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Keisha Evans commended the JPA but cautioned the JPA to consider any implications a project would have on EPA residents. She said widening the channel in Reach 1 is taking away land that people use; there are houses and people there. She said draining the overflow into the wetlands is a huge environmental undertaking.

Ms. D'Agosta responded to questions being raised. She stated the question about which bank stabilization project to pursue depends on availability of local match. She stated that \$550 per linear feet was an average estimated cost for the bank stabilization project.

Ms. D'Agosta said East Palo Alto and Hwy. 101 was the area of perceived risk; if the levee project had not been completed last year, the creek would have flooded in December 2002. She stated that tidal influence in the area and the fact that East Palo Alto homes sit at a level lower than the creek make Reach 1 an area of perceived risk.

Mr. Steffens said in these criteria what was considered was not the area of the highest risk but which project did the most to reduce the risk of flooding. He said areas that are potentially subject to deeper flooding are the Gardens neighborhood of East Palo Alto, the Saint Francis Duveneck area, and the Willows communities of EPA and Menlo Park. He said Reach 1 got the highest rating to reduce the impact.

Director Zlotnick said the wording should be changed to reflect what Mr. Steffens just explained to reduce potential impact to loss of life. He said that changed language would make things clearer.

Chairperson Bay asked if tidal influences or wind are factored into the COE model. He said if we decide to invite the COE to look into this, what is their approach/ attitude with all this good work.

Debra O'Leary said the COE has taken sinuosity, which is curvature of the creek into consideration in their modeling.

Director Zlotnick said the COE wants this project to work. He said the SCVWD has a good relationship with the COE and they get responsiveness from the COE.

Chairperson Bay said in response to Keisha Evans, he wanted to know when the public got a say in this.

Ms. D'Agosta stated the bulk of this happens in the feasibility phase when we get to look at the pros and cons. She stated the JPA would be participating in the initial evaluation phase with the COE.

Ms. Keisha Evans stated that she was concerned with creek widening because as you get closer to the homes it potentially impacts the foundations.

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Ms. D'Agosta said during the reconnaissance 12 month period was when we need to have hard discussions regarding the funding or local match and that this will start with the July agenda.

Mr. Wiley said concrete sacks are a problem in a flood control solution and ruin the environment.

Director Zlotnick said concrete sacks would most likely not happen.

Ms. D'Agosta stated this 205 project would combine flood control and environmental preservation. She stated preservation is an equal function of the JPA.

Director Zlotnick thanked staff for their effort and PA neighborhood groups for their pro bono consulting.

Chairperson Bay asked if that the "possible project #9" on the project list (Family Farm Road) was eliminated from consideration because Stanford is handling this. He said he wanted to make sure the JPA was going to have a seat at the table on this issue.

Ms. D'Agosta stated the JPA could help and should be aware of what is going on with the project.

Mr. Christofferson said he would like to note that the JPA is taking advantage of a pre-existing commitment from Stanford University to do a specific scoped project. He said this should indicate rather than create the impression that there is a shared responsibility for the area.

Chairperson Bay said he would like to see a memorandum from Stanford University on this issue of Family Farm Road. He said it was important that the JPA had a seat at the table on this.

Director Jacobs Gibson said she wanted to make a motion that that the Board accepts the staff recommendations.

Director Zlotnick said he wanted to be very clear of what is being accepted and what is not. He said he was concerned that the language was not clear that the proposed project is committed through the Recon phase only and that is federally funded and that after this phase we will need to commit dollars to move into the Feasibility Phase. He said that, at that time, we can if necessary, or if desired because of the G.I. starting, pull out.

Ms. D'Agosta confirmed that Director Zlotnick was correct.

Chairperson Bay called for the vote on the two tiers of the project. Board members considered the staff recommendations. It was approved unanimously 5-0.

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7. MEMBER REPORTS

A. EPA Degraded Urban River Pilot Program Proposal

Debra O'Leary said the COE nominated SF Creek to be a degraded urban river pilot in July 2002. She said an application was made, SF Creek was not on that list of selected pilots, and the COE-SF District Office would like the SF Creek resubmitted to the program for this year.

Ms. O'Leary said she would be resubmitting for this program that would allow the JPA get a better understanding of sediment issues on the creek. She said the four initial pilots selected last year received \$50,000 each to conduct studies on sediment in their watersheds.

Ms. O'Leary said if this year's application was successful, the biggest advantage was in getting an advocate from the Environmental Protection Agency (EPA) to come help on the creek and possibly identify further funding sources within that and other federal agencies.

Ms. D'Agosta stated that funding from other federal agencies is allowed when looking for local match on federal projects like the CAP 205 or the long-term project. She stated the possibility of bringing the EPA into the mix through the degraded urban river pilot program could be to the JPA's advantage in the quest for local funding.

8. BOARD MEMBER REPORTS OR ANNOUNCEMENTS

Director Zlotnick said that while he was not in attendance at the meeting when the JPA operational budget was approved [March 27, 2003], he supported the action of his colleagues. He said he was concerned that there were no dollars in the budget for merit increases and the two-week unpaid furlough during August for JPA employees.

Director Zlotnick said he was looking to make up that dollar difference by having the SCVWD give a one-time supplement to their FY 2003-04 share of the JPA operational budget. He asked the board for their feelings about this.

Director Mossar said this was not an agenda item so there could not be discussion on it. She said the board had to have discussion on it before one member takes an action. She said this was a generous offer but she requested it be put in the agenda of the next meeting.

Director Zlotnick said there was an annual water walk the next day and all the Board members were welcome to attend.

Ms. D'Agosta said the USGS was hosting an open house May 31st to June 1st and the event would have a SF Creek room. She stated that the JPA, the Watershed Council, the City of Palo Alto and Stanford were working on an exhibit for that weekend.

9. ADJOURNMENT

Chairperson Bay adjourned the meeting at 8:50 p.m.

Minutes prepared by: Andrew Kloak

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