

**SANTA MONICA BAY RESTORATION COMMISSION**  
**MINUTES OF THE MEETING OF THE GOVERNING BOARD**

**August 18th, 2011**

**Del Rey Yacht Club**

**1. Welcome and Introductions**

At 9:40 AM, Chair Richard Bloom called the meeting to order. Introductions by attendees followed. Bloom welcomed Frances McChesney, State Water Board Legal Counsel, and Dayna Bochco who is the newest appointee by the California Coastal Commission.

**2. Order of Agenda**

Order of agenda not changed.

**3. Public Comment**

John Davis stated that the Commission is in deep financial trouble because it diverts funds to a private non-profit and said that no public private partnership exists. Davis accused the Commission of falsely operating a non-profit and reporting the US EPA. Davis further stated that funds should go the State Treasury. Davis also stated that funds for the Commission are treated as income by the SMBRF. Davis said that there the Commission is rife with conflict of interest. Davis also referred to what he considered inappropriate approval of projects, such as a project in El Segundo, where he claims the foundation treated a million dollars as income. Davis also stated that he will request investigations from state and federal entities into the use of funds and projects.

Patricia McPherson, Grassroots Coalition, indicated that there is an investigation of the SMBRF going on for about a year, and paralleled the tea party movement with this effort. McPherson commented that there is a lack of accountability of funding and that even the federal EPA would go down because of this. She said that a public private partnership does not exist. Finally, McPherson provided a CD with a recent report regarding the SoCal Gas Company's leakage and settlement with the Grassroots Coalition; McPherson said SoCal Gas had to stop gas injection underground because of the leakage.

Kathy Knight, conservation chair of the Sierra Club Airport Marina Group, requested a change to the website for the Commission, she stated she could not find the agenda for the meeting.

**4. Approval of June 16, 2011 Meeting Minutes**

Approved with the addition of Michael Mullin in attendance. (M: Maguin , S: Cardellino)

**5. Reports from the Chair and Executive Committee**

Ron Smith, representing West Basin, was welcomed to the meeting.

***Chair and Executive Committee Report:***

Richard Bloom reported that, at its July meeting, the Executive Committee discussed at length items on the current Governing Board agenda and the Commission's Memorandum of Understanding (MOU).

***Public Comment:***

John Davis referred to the MOU and indicated that the Commission should adhere to its rules and bylaws and that there have been no changes to it. Davis also said that the Technical Advisory Committee (TAC) is a subcommittee of the BWC not the Governing Board (GB), according to the MOU. Davis expressed concern about the MOU being disregarded and also about having the TAC as part of the GB agenda. Davis said the recent BWC voting to elect new members is invalid because the members did not submit a form 700.

Patricia McPherson commented that there are no minutes on the BWC meetings and that there is no process either. McPherson also said that there is a lack of adherence to policies of the BWC and that is not clear how members were elected. McPherson indicated that minutes don't reflect what was said. McPherson also said she would like to know where the documents she submitted are and how they were made available to the public. McPherson said she would like the documents made to the public via the Commission's website.

## **6. Report from the Technical Advisory Committee (TAC)**

### ***Public Comment:***

Davis commented that it is impossible to comment on an agenda item before the reports are given. Davis noted the relationship of the TAC with the Commission and Foundation and stated that the Foundation apparently embezzles the funds of the Commission when TAC advisors are paid.

McPherson said she could not find TAC reports on the website. McPherson indicated that she has requested and does not get a reply about when the TAC meetings are, and also stated that the public is excluded from this process.

Steve Bay gave the TAC report. He indicated no new reports but announced the next meeting on September 22, 2011. Bay mentioned that the upcoming TAC topics are: continuing working with staff on developing improved habitat indicators for use on the State of the Bay reports and continuing assessments; considering updates to the TAC membership; and continuing working with staff on monitoring the Ballona Wetlands program, helping with the review and synthesis of the results of monitoring.

## **7. Reports from the Executive Director and Staff**

### ***Public Comment:***

Davis referred the reports given after public comment, he stated the comments are rendered useless and asked that this sequence be changed to start public comment after the reports. Davis then spoke about the SMBRF as a provider of administrative services and said only the State Water Resources Board could do that, according to the Public Resources Code. Davis also spoke about SMBRF's Executive Director not being legitimate and concluded by saying that funds paid to the Executive Director be sent to the State treasurer.

McPherson indicated that the only attendees of the TAC meeting show as Baykeeper and no one else, and that the public is excluded from the process and stated that there is a lack of accountability. McPherson also mentioned that the TAC money is going to a private foundation and that there is no model for this.

### ***Executive Director Report:***

Shelley Luce, Executive Director, reminded all about the Commission's website: [www.smbrc.ca.gov](http://www.smbrc.ca.gov), and indicated it links to the foundation and major partners. Luce welcomed Frances McChesney from the State Water Board and thanked her for a memo she created that addresses questions that have been directed to staff and board. Luce announced the upcoming Coastal Cleanup Day to pick up trash from Marina del Rey waters. Luce also announced the upcoming SMBR hosting of the Association of the National Estuary Programs conference in October and invited the GB to attend. Luce also presented an award received from the Westside Urban Design Forum for the Ballona Creek Greenway plan designed over the course of several years which was led by Jessica Hall. Luce mentioned that Jessica Hall led stakeholders and residents in walks to the entire Ballona Creek, mapping and photographing what it existed and envisioning and imagining what could exist. Luce said Jessica Hall, being a landscape architect, took ideas and turned them into an implementable plan. Luce mentioned we were given first place for that award.

Mark Gold recommended that public comment should be given after the reports. Bloom concurred. Susan Nissman added that documents should be accessible via the website to be studied beforehand. Scott Valor said that reports are public records and available and said that if there is sufficient demand those reports can be placed on the website. Bloom within his discretion announced that he would call public comment at the end of reports. Gold suggested also that all public comments be given at once, reports given first and public comment at the very end. McChesney spoke on the difference of informational versus action items and that public comment could be accommodated in different ways legally. McChesney also indicated that the chair can control the repetitiveness of comments.

Dennis Washburn recommended all to attend the ANEP conference.

Joan Cardellino asked about the extent of staff involvement in presentations and projects during the ANEP conference. Luce replied that the conference focus will be process and NEP programs, as well as the relationships between NEPs. Our showcasing is limited, but there will be sessions on reef restoration and urban retrofit. A focus will also be sharing what and how other NEPs are doing their work. Luce mentioned our field trips, including a trip to Palos Verdes where we had a restoration partnership, a trip to Baldwin Hills and the Ballona Creek, a trip to see our groundbreaking rain gardens in Culver City, a trip to Malibu Lagoon and the low impact on a parking lot, and a trip to Paradise Cove. Shelley asked board for member participation.

## **8. Consideration of Approval of Proposition 84 Project Recommendations**

Luce announced three proposals for consideration to approve recommendations for funding from Prop 84. Luce said applications received in March were reviewed for feasibility and eligibility according to the RFP requirements by the TAC.

The applications met the criteria of technical feasibility and ability to clean water pollution. Based on TAC reviews and site visits, these three were proposed for implementation, as seen on the staff report provided (Agenda Item #8). Other proposals are not off the table, according to Luce. The proposals: 1) Project: City of Calabasas Trash Basin Inserts, Applicant: City of Calabasas, Amount Requested: \$168,000, Match: \$40,820. 2) Project: City of Los Angeles University Park Rain Gardens, Applicant: City of Los Angeles, Amount Requested: \$510,000, Match: \$90,000. 3) Project: City of Santa Monica In-line Stormwater Infiltration, Applicant: City of Santa Monica, Amount Requested: \$300,000, Match: \$52,350. Luce spoke about the innovativeness, effectiveness, cost-effectiveness, and the monitoring aspects of these projects.

Angus Alexander spoke about the Ballona Creek permeable bottom, that is contaminated and widely studied, and asked how we can maintain a permeable bottom on the Santa Monica project. Alexander recommended an investigation for this project. Luce replied that the storm rains were chosen for accessibility and the ability to be cleaned easy. Luce said it was identified where the vacuum could be placed. Luce stressed monitoring to assess quickly how sediment sets in and how contaminated it gets.

Marvin Sachse said he was in favor, but asked if the City of LA is going to maintain the City project, and said that based on experience the numbers did not make much sense. Shelley replied that City of LA is going to maintain them. Sachse said that the rain gardens at \$20,000 is a good deal, but asked why we are concentrating 35 of them in one area and not throughout city. Luce said that some rain gardens are small and indicated that we want more rain gardens throughout the city but that we will be making a difference in an entire sub-drainage by the concentration of these rain gardens. Enrique Zaldivar added that the City of LA has gardens in other parts of the city as well, and said these are unique because of the great benefits that we will have in terms of the quality of water in an area of high traffic with high population. Sachse asked about groundwater contamination issues on the City of Santa Monica project. Sachse also recommended removal of the trash and making the basins virtually impervious. Gold answered that the groundwater is not high at all. Luce added that the City of Santa Monica includes vacuuming fine particles. Sachse added that what's needed is to disturb the soil composition. Luce agreed to talk with City of SM about how they do it in other projects. Gold recommended checking the percolation and what they can do from an operations and maintenance perspective to make sure they're not losing the percolation.

Mike Mullin asked about how the match for these grants is determined? Luce replied that there is a minimum match requirement but the higher match provided the more it adds to the projects proposal's case. Luce concluded by saying that match does not have to be cash.

Wing Tam asked how these projects relate to Green Solutions work. Luce answered that the University Park garden is implementing a Green Solutions project. Luce indicated that Green Solutions projects do not include under-ground projects like the one in the City of Santa Monica.

Dennis Washburn recognized the merit of these projects and spoke about the improvements done here and in the City of Calabasas which are done in an economical way.

Gary Hilderbrand spoke about the catch basins and the extensive efforts on devices for retrofit. Hilderbrand spoke also about the efforts evaluating devices for retrofit and mentioned working with cities on these efforts. Hilderbrand said they developed a list of devices that are acceptable, but have not assed recycled plastic devices but encouraged applicants to talk to try to understand and to not cause any negative impact on the basins. Luce stated that the devices meet trash TMDL requirements. Nissan asked if there was any additional maintenance and monitoring costs after installing. Alex Farassati of the City of Calabasas thanked the TAC and GB, then stated that the devices are easily installed and replaced. Farassati said that there was no additional maintenance except checking for damage. Farassati mentioned that reduction of bacteria will be the result of this project. Alexander asked how the bacteria and chemical reductions will be achieved. Farassati said they could not find a source of bacteria in the drain and creek itself, and that reducing the runoff will help reduce bacteria, by preventing the trash.

***Public Comment:***

Davis complained about the decorum at the GB meeting. Davis also spoke about Prop 84 funds diverting to a private foundation.

McPherson said that there is not public disclosure from the Foundation receiving money. McPherson said public and other entities are being excluded from the process. McPherson said she finds the process intimidating.

Item approved unanimously (M: Nissman, S: Sibert)

## **9. Discussion regarding Proposed Amendments to the Memorandum of Understanding**

Luce gave a history of the MOU. Luce indicated that some items need revision and are no longer applicable. Luce indicated this is not an action item but rather a discussion item. Valor said that input from the GB was taken and incorporated in the changes to the MOU, and indicated that we are receiving compliance guidance from EPA as well. Valor indicated some of the proposed changes, including adding voting members from the BWC to the GB and allowing more GB members to vote. Valor talked about the criteria for who is a voting member and who is not because it is currently inconsistent.

Nissman asked what was the history of voting criteria inconsistencies. Valor replied that at one point some agencies opted out. Valor also said we are re-visiting this issue. Zaldivar asked why elected officials cannot be voting members. Valor replied that it is only at the state level and that we follow that practice.

Valor continued to explain some other changes, including merging the chair of the advisory body and the GB, but not the TAC chair because that chair belong to a more technical entity requiring more technical expertise. Valor also addressed the process of the BWC member selection, and indicated that the MOU could be changed to reflect how the selection process currently works. Valor also spoke about the history of the BWC being a hybrid body that advises. Valor said the MOU revision recommends that the BWC be renamed to avoid confusion. Washburn asked if we could use “watersheds” because we have more than one watershed in our jurisdiction. Valor also addressed the selection process criteria of the BWC, and mentioned that there would be a new process for this.

Valor also spoke about specifying the ‘when’ and ‘how’ the BWC should meet to be effective based on what historically has worked, which was a symposium style. Finally, Valor spoke about removing or correcting erroneous references that are no longer applicable as well as misspellings and typos.

Mike Mullin asked about the MOU amendment process and whether it required EPA approval or some other body’s approval. Valor said that the only requirement was a majority vote by the GB. Susan asked further questions about process. Valor said that the Executive Committee will work on draft before the GB voting. Liz Crosson said that the advisory committee is consistent that with EPA’s requirement and stressed that the BWC body be truly advisory after the changes. Paul Wong asked about quorum and Valor replied that there is continuous interest so that quorum would not be a problem.

### ***Public Comment:***

Davis said that the MOU established the governance and authorities of the Commission. Davis also stated that Valor is failing to comply with fiscal disclosure requirements and that Bloom is not a legal chair according to the bylaws. Davis said that the Commission has been operating illegally, and that the Commission is covering its illegal tracks.

McPherson said that the Commission is unwilling to do anything about what she claims are extreme conflicts of interest because of the power and control exerted by the Commission. McPherson asked for transparency and questioned where all the money goes for different projects.

Knight asked about the application process to become a BWC member. Valor agreed to provide the information.

Washburn stated that the GB has the right to improve in order to continue to function better, in reference to the MOU changes.

Knight provided a letter with a title Presentation on Artificial Reef Development. Another letter was provided by John Davis regarding claims of issues of the Commission and relationship between Commission and Foundation.

## **10. Presentation by NOAA on Artificial Reef Development for the Montrose Settlements Restoration Program**

Tom Ford introduced Dave Witting, a Fish Biologist for the National Oceanic and Atmospheric Administration (NOAA).

A presentation was given to the Governing Board concerning existing artificial reefs (mostly sunken boats) and the potential for more considered the possibility.

Dave Witting discussed how artificial reefs can serve as important fish habitat in the region. With money from the legal settlement against companies that released large quantities of DDTs and PCBs onto the Palos Verdes Shelf years ago, causing ongoing harm to ocean resources and habitats in Southern California, a group of six federal and state agencies (collectively known as the Montrose Settlements Restoration Program or MSRP) have developed plans to restore ocean resources and habitats affected by DDTs and PCBs.

The area considered for these projects extends from Long Beach into the Santa Monica Bay, including the Palos Verdes Shelf. Among those plans is the consideration of restoration of natural reef habitats and the development of artificial reefs.

Witting explained how rocky reef habitat is important to a highly diverse assemblage of fish species, including providing key breeding and nursery habitat, which then leads to economic benefits from commercial fishing and diving. He noted that artificial reefs are relatively easy to create in concept, but challenges include costs and the logistics of actually developing one. However, artificial reefs can be an important method for mitigating for lost habitat, restoring impacted natural reefs, and can create opportunities for recreation.

The restoration of impaired natural reefs is currently being considered as part of the MSRP Phase 2 Restoration Plan. This plan will be released for public comment in October of this year. He noted that polluted sediment from the upstream companies impacted offshore soft bottom fish habitats off the Palos Verdes Peninsula and restoring rocky reef habitat will help compensate for these impacts.

***Public Comment:***

Davis spoke about the positive effects of artificial reefs and recommended that NOAA administer this project not the Commission which he claims will create damage and could not be trusted.

Knight spoke about Doug Fay, an advocate of artificial reef, not being aware of this item for the meeting.

Joel Geldin from the California Ships to Reefs spoke about his organization with over 200 volunteers and the organization's efforts towards artificial reefs efforts and other efforts.

Gold recommended a list of artificial reefs resources.

**11. Member Comment—Governing Board members may wish to comment on issues not otherwise on the agenda.**

Bloom acknowledged Peter Douglas for his decades of work on the coastal protection. John Sibert announced the water conference in Malibu being on the city website in video and Powerpoint slides. Alexander talked about benefits of artificial reefs and the attractions of such reefs.

**12. Announcement of Next Meeting Date**

The next Governing Board meeting will be held on October 20<sup>th</sup> at 9:30am.

Meeting adjourned at 12:09 pm.

**Attendance:**

***Voting Members of the Governing Board:***

Richard Bloom, SMBRC Chair, President, Bay Watershed Council (City Council Member, City of Santa Monica)

Dayna Bochco, California Coastal Commission

Joan Cardellino, (alternate for Sam Schuchat), California Coastal Conservancy

Liz Crosson, Public Member (Environmental/Public Interest), Santa Monica Baykeeper

Fran Diamond, California Regional Water Quality Control Board, Los Angeles

Mike Gin, South Bay Cities (City of Redondo Beach, Mayor)

Mark Gold, Public Member (Environmental/Public Interest), Heal The Bay

Gary Hilderbrand, (alternate for Mark Pestrella), LA County Department of Public Works

Steve Maguin, LA County Sanitation Districts

Michael Mullin (alternate), Office of the Mayor, City of Los Angeles

Susan Nissman (alternate to Zev Yaroslavsky), LA County Board of Supervisors (Supervisor, 3rd District)

Marvin Sachse, Public Member (Business/Economic Interest), Brash Industries

John Sibert, Malibu Watershed Cities (City of Malibu)

Damian Skinner (alternate for Micheal O'Leary), Ballona Creek Watershed Cities (Culver City)

Ron Smith, At Large member, West Basin MWD

Fran Spivy-Weber (alternate), Cal EPA

Dennis Washburn, At-Large Member (RCD, Santa Monica Mountains Region)

Enrique Zaldivar, LA City Department of Public Works

***Non-Voting Members of the Governing Board:***

Angus Alexander, LA County Fire Department, Lifeguard Division

Steve Bay, Technical Advisory Committee, Vice-Chair

Charles Caspary, Las Virgenes Municipal Water District

Rorie Skei (alternate to Joe Edmiston), Santa Monica Mountains Conservancy

Louise Rishoff, (alternate), Julia Brownley, State Assemblymember, 41st District  
Rebekah Rodriguez-Lynn (alternate to Fran Pavley, California Stat Senator, 23<sup>rd</sup> District  
Paul Wong (alternate to Santos Kreimann), LA County Department of Beaches & Harbors  
Jennifer Zivkovic (alternate to Ted Lieu), Senator Ted Lieu, 28th District

***Commission Staff:***

Tom Ford  
Shelley Luce  
Scott Valor  
Marcelo Villagomez

***Other Attendees, including other Bay Watershed Council Members:***

Frances McChesney, State Water Board  
Barbara Cameron, City of Malibu  
Sean Bergquist, Great Ecology, Inc  
E.J. Caldwell, West Basin  
Olivia Damavandi, City of Malibu  
John Davis  
Alex Farassati, City of Calabasas  
Joel Geldin, California Ships to Reefs  
Kathy Knight, Sierra Club Airport Marina Group  
Jim Lamm, Ballona Creek Renaissance  
Thomas Napoli, CA DPG  
Patricia McPherson, Grassroots Coalition  
Wing Tam, LA City Department of Public Works  
Shelley Walther, LA County Sanitation District  
David Witting, NOAA