SAN DIEGUITO RIVER VALLEY REGIONAL OPEN SPACE PARK
JOINT POWERS AUTHORITY

9:30 a.m. – 12:00 p.m.
Friday, November 19, 2010
County Administrative Center
1600 Pacific Highway, Room 302/303
San Diego

Speaker slips will be available. Please fill out a slip and give it to the Chair prior to the meeting if you wish to speak to an item on the agenda. The Board may take action on any item listed on the Consent or Action agenda.

Introductions and Announcements

Approval of the Minutes of September 17, 2010

Executive Directors Report

Public Comment

This portion of the agenda provides an opportunity for members of the public to address the Board on items of interest within the jurisdiction of the Board and not appearing on today's agenda. Comments relating to items on today's agenda are to be taken at the time the item is heard. Pursuant to the Brown Act, no action shall be taken by the Board on public comment items.

ACTION

1. Appointment of Nominating Committee for Board Officers 2011 (page 3)

2. San Dieguito Lagoon (page 6)
   a. Wetland Restoration Project Progress Report – Presentation by Pat Tennant, Southern California Edison
   b. MLPA Status
   c. Update on Trails

3. I-5 North Coast Corridor Project Draft EIR/EIS – Approval of Letters to Caltrans and SANDAG (page 15)

4. Workers Compensation Insurance (page 26)
5. **Background Check Policy** (page 28)

6. **Proposed Purchase of Del Mar Fairgrounds by City of Del Mar** (page 32)

**INFORMATION**

7. **Coordination Reports (oral)**
   a. **San Dieguito River Valley Conservancy**
   b. **Friends of the San Dieguito River Valley**
   c. **Volcan Mountain Preserve Foundation**
   d. **San Dieguito Lagoon Committee**

8. **Status Reports (Oral)**
   a. **River Park Projects**

9. **Jurisdictional Status Reports**
   An opportunity for the Board members to report on actions taken within their jurisdictions to further the park planning process, or on problems which have arisen.

10. **Communications**

**THE NEXT REGULAR JPA MEETING WILL BE JANUARY 21ST.**

If you have any questions, please call Dick Bobertz at (858) 674-2270.

****Due to the high cost of printing and mailing the JPA and CAC agendas, the JPA has converted to an email distribution of both agendas. Please advise the office at 858 674-2270 if you do not have an e-mail address and want other arrangements to be made. The agenda and minutes are available at no cost on the San Dieguito River Park web site at [www.sdrp.org](http://www.sdrp.org).
Agenda Item 1
November 19, 2010

TO: JPA

FROM: Staff

SUBJECT: Nominating Committee for next year’s Chair and Vice-Chair & Committees

RECOMMENDATION:

Appoint Nominating Committee for next year’s Chair and Vice-Chair & Committees

SITUATION:

A. Summary and Recommendation

In accordance with JPA Board Rule #1, Election of JPA Board Officers, a nominating committee is to be appointed by the Chair each calendar year. The nominating committee is to present to the Board of Directors for their consideration at their next meeting, a proposed slate which includes nominations for the two officers (Chair and Vice-Chair) and membership on the Land Use Committee, Acquisition and Financing Strategies Committee, and Budget/Administration/Policy Committee. It is customary for the Chair to announce the appointment of a committee of three JPA Board members to serve on the Nominating Committee. The Committee would confer before your next meeting to prepare a slate of officers and committee members for the Board’s review and approval. New officers will assume office in January.

B. Citizens Advisory Committee Recommendation – This item has not been reviewed by the CAC.

C. Issues – No issues have been identified.

ALTERNATE ACTIONS

1. Approve the Nominating Committee selected by the Chair.
2. Do not approve the Nominating Committee selected by the Chair and elect other members instead.

Respectfully submitted,

Dick Bobertz
Executive Director

Attachments:
1) JPA Board Rule #1, Election of JPA Board Officers
POLICY NO. P95 - 1
ADOPTION DATE: 3/17/95
POLICY OF THE BOARD OF DIRECTORS OF THE SAN DIEGUITO RIVER VALLEY REGIONAL OPEN SPACE PARK JOINT POWERS AUTHORITY
ELECTION OF JPA BOARD OFFICERS

PURPOSE

The San Dieguito River Park Joint Powers Authority (JPA) was formed to create, preserve and enhance the San Dieguito River Valley Regional Open Space Park (Park). The Joint Powers Agreement provides for the Board to select its officers from among the members. The purpose of this policy is to provide direction on the selection of officers.

POLICY

The success of the JPA in fulfilling its functions as authorized by its member agencies and in carrying out its programs to serve the people of San Diego County is in the hands of its Boardmembers and most importantly its officers. Therefore, it is the policy of this Board to select officers who are enthusiastically supportive, willing and able to promote the San Dieguito River Park and its goals and objectives, and to implement the will of the Board.

OFFICERS/TERMS

The Joint Powers Authority officers shall consist of a Chair and a Vice-Chair who will serve one year terms. In January of each year, customarily the Vice-Chair from the previous year will assume the Chair’s office. At any time during the year should the Chair resign or be unable to serve in the function of Chair, the Vice-Chair will assume the Chairmanship. An effort shall be made to rotate the Chair and Vice-Chair positions among the various jurisdictions.

NOMINATING COMMITTEE

A nominating committee will be appointed by the Chair in October of each calendar year. The nominating committee shall present to the Board of Directors for their consideration at the next JPA meeting a proposed slate which includes nominations for the two officers and membership on the Land Use Committee, Acquisition and Financing Strategies Committee and the Budget/Administration/Policy Committee. These committees will meet as needed to accomplish the business of the JPA. The Board may accept the recommendations of the nominating committee or amend them by a majority vote.

REMOVAL FROM OFFICE

An officer of the San Dieguito River Park JPA may be removed by a majority vote of the Board of Directors.
JPA AD HOC COMMITTEES, 2010

Land Use Committee
Richard Earnest
Pam Slater-Price
Jim Cunningham
Sherri Lightner
1st Alternate: Olga Diaz
2nd Alternate: Dave Roberts

Duties: 1) Review CAC and staff recommendations on pending projects, when warranted. Make project recommendations to JPA Board.
2) Consider planning and environmental issues that relate to the San Dieguito River Park.

Acquisition and Financing Strategies Committee
Dave Roberts
Pam Slater-Price
Tom Golich
Jim Cunningham
1st Alternate: Richard Earnest
2nd Alternate: Dianne Jacob

Duties: 1) Review staff recommendations and advise staff on property negotiation. Make acquisition recommendations to JPA Board.
2) Serve as “Investment Committee”. Responsibilities as Investment Committee include review of internal and external endowment funds, preparation of annual analysis and report to the Board, and rebalancing of assets in internal fund as appropriate.

Budget/Administration/Policy Committee
Sherri Lightner
Olga Diaz
Richard Earnest
Dave Roberts
1st Alternate: Jim Cunningham
2nd Alternate: Carl DeMaio

Duties: 1) Review draft budget and work program and present recommendations to JPA Board
2) Executive Director Performance Review
3) Make recommendations regarding standing or ad hoc committees and membership
4) Review and set JPA policies and by-laws

Wetlands Advisory Committee
Pam Slater-Price
Richard Earnest
Dave Roberts
Tom Golich
Jacqueline Winterer, Public Member

Duties: Review and recommend policies and plans relating to the San Dieguito Lagoon Wetland Restoration Project

Representation on 25th District Agricultural Association Master Plan Committee
Richard Earnest
Sherri Lightner
Dave Roberts, Alternate
TO: JPA Board
FROM: Staff
SUBJECT: San Dieguito Lagoon

RECOMMENDATION:
Receive Information

SITUATION:

A. Wetland Restoration Project Update. At today’s meeting, Pat Tennant with Southern California Edison will be present to give your Board an update on the progress of the San Dieguito Lagoon Wetland Restoration project.

B. Marine Life Protection Act (MLPA) status. As discussed at your September 17 meeting, the Preferred Alternative in the MLPA EIR would remove all special status in the San Dieguito Lagoon. Please see the letter sent by the JPA in response to the EIR (Attachment 1). See also the letter sent by Southern California Edison in 2009 recommending against the Marine Reserve status that your Board had requested.

C. JPA staff will provide your Board with an oral update on the progress of trail planning and implementation in the lagoon area. Several trails are in progress of construction, including the Lagoon Trail Segment 8, the Mesa Loop Trail, and the Horsepark Trail. In addition, the Reach the Beach Alternatives Study is underway.

There are two other issues that your Board should be aware of and provide direction to staff. The first has to do with the Boardwalk at the lower edge of the South Overflow Lot (SOL). When the JPA obtained the Coastal Development Permit for the lagoon trails from the Coastal Commission, the Commission included a condition, over the JPA’s objections, that the Boardwalk may have to be relocated when the SOL is restored. Currently, the 22nd Ag District is attempting to obtain a permit to restore the lower 4 acres of the South Overflow Lot to comply with an Army Corps of Engineers requirement. Coastal Commission required that they submit an overall restoration plan for the SOL to ensure that restoration of the 4 acres would not preclude the future plans to restore the entire site to tidal wetlands. When the Ag District submitted the plan as requested, they were advised by the Coastal Commission to make more changes to it, and to submit two plans, one with the boardwalk in its current location, and one with the boardwalk relocated. The Ag District objected to spending the additional $10,000 it
would take for their consultants to produce a new plan that would relocate the boardwalk. In addition, the Ag District objected because the boardwalk is in its current location based on a permit obtained by the JPA and an easement on Ag District property that the JPA has for that purpose. Ag District staff discussed this matter with JPA staff. JPA staff’s position is that the boardwalk, which is for pedestrians only, is in the right place now and should not be moved. It is ideal for nature study, which is one of the permitted uses in wetlands; its construction as a boardwalk allows water to flow under (or at certain times, flow over) it, and it is a community jewel, having been constructed partially by volunteers (Del Mar Rotary), and adopted by a committee of the Friends of the San Dieguito River Valley, and the subject of an ongoing fundraiser project, the “Donate a Plank” program, which has raised over $45,000 for trail construction.

The second issue to bring to your Board’s attention is that there is a possibility of securing a parking area for trail users at the northeast corner of Jimmy Durante Blvd. and San Dieguito Drive. This site is owned by North County Transit District but operated by the City of Del Mar. It is currently used as a recycling center. We have been informed that that lessee is leaving and that other uses are being considered. A proposal has been made by a towing company to lease that site. Currently there are no parking areas for trail use west of I-5, and it is badly needed. That site would provide direct trail access to the Coast to Crest Trail, including the aforementioned boardwalk, and the Riverpath Del Mar. In addition it is close to the Lagoon Overlook at Grand Avenue Bridge. This item was on the Del Mar City Council agenda last week, but it was continued for further detail development. It is possible that if paid parking was installed at the lot, those funds would provide a revenue stream to pay for the use of the lot.

Attachments:
1. JPA comment letter on MLPA Draft EIR 9/29/10
2. SCE comment letter on MLPA Third Round 10/9/09
3. Map of South Overflow Lot with Boardwalk
San Dieguito River Valley  
Regional Open Space Park  
14103 Highland Valley Road  
Escondido, CA 92025  
(858) 674-2270 Fax (858) 674-2280  
www.sdrp.org

September 29, 2010

MLPA South Coast CEQA  
California Department of Fish and Game  
4665 Lampson, Suite C  
Los Alamitos, CA 90720

Subject: Comments on MLPA Initiative South Coast  
Draft EIR

The San Dieguito River Park Joint Powers Authority (JPA) Board of Directors considered the MLPA Initiative South Coast Draft EIR at their meeting of September 17, 2010. The JPA is concerned that the proposed Integrated Preferred Alternative not only avoids any MPA designation for the San Dieguito Lagoon but completely eliminates the existing MPA designation as a state marine park. The JPA has always supported marine protection of the San Dieguito Lagoon under the MLPA and was involved in the MLPA process (see attached letter dated November 24, 2009). Sometime between October 2009 and December 2009, when the MLPA Initiative’s blue ribbon task force and stakeholders group were still considering a state marine reserve designation for the San Dieguito Lagoon, the “integrated preferred alternative” was selected, which completely removed MLPA status at the San Dieguito Lagoon. The JPA was not aware that this decision was made and is disappointed that no explanation is given as to the rationale for this decision.

As you know, the San Dieguito Lagoon is currently undergoing an $86 million wetland restoration mitigation project by Southern California Edison that will establish 150 new acres of tidal wetlands and preserve 350 additional acres as protected wildlife habitat. In our November 2009 letter we expressed concern about SCE’s ability to finish the wetland restoration project as permitted and conduct maintenance operations including periodic maintenance dredging over the next 40 years, if designated a state marine reserve. Southern California Edison and the City of Del Mar expressed these same concerns. However, it appears that MPAs have been recommended for other San Diego coastal lagoons that have undergone similar restoration efforts with allowances for similar dredging and maintenance obligations (San Elijo Lagoon for example). Most California lagoons/estuaries, in fact, have and will continue to undergo some level of restoration in
the future. The MLPA process is flawed if it does not afford protection to our coastal lagoons while allowing restoration efforts to continue.

The Draft EIR fails to address several aspects of the proposed project and its affect on the San Dieguito Lagoon including:

- The rationale for eliminating marine protection area status for the entire San Dieguito Lagoon.
- The effect of removing the current MPA status of a state marine park. The Draft EIR does not document the impact of eliminating commercial and recreational fishing restrictions at the lagoon.
- How the MLPA designations would be implemented particularly in coastal areas that are undergoing restoration.

In addition, the project alternatives in the DEIR expand the San Dieguito Lagoon MPA to a state marine reserve, but no explanation or analysis is provided that compares the impacts of the preferred project to the alternatives. The proposed project strips the San Dieguito Lagoon of its existing state marine protection status yet fails to address the impacts of such a measure. The Draft EIR is therefore inadequate and should be revised to include this information.

Thank you for considering our comments. We look forward to communication with your staff.

Sincerely,

[Signature]

Richard Earnest
JPA Board Chair

Cc: Senator Christine Kehoe, 39th District
    Assemblymember Mark Wyland, 74th District
    David Asti, Southern California Edison
    Patrick Tennant, Southern California Edison

Attachments
November 24, 2009

Ken Wiseman, Executive Director, MLPA Initiative
California Department of Fish and Game
1416 Ninth Street
Sacramento, CA 95814

Re: Letter of Support for State Marine Reserve or State Marine Conservation Area for the San Dieguito Lagoon

Dear Mr. Wiseman:

The San Dieguito River Park Joint Powers Authority was very surprised that the SMR designation for the San Dieguito Lagoon that was supported at the local level and proposed during the entire MLPA process was dropped at the last minute resulting in no recommended designation change.

Over the last twenty years the San Dieguito River Park JPA has been working to restore the San Dieguito Lagoon, associated wetlands and upland habitat in an area of over 700 acres now owned by the River Park and partners. Full restoration to create a functioning ecological habitat that will provide for tidal flushing, open water, wetlands, grassland and other upland habitat is now almost complete.

Our support of the SMR designation depended on the continued ability to carry out and potentially expand the San Dieguito Lagoon Restoration Project including the Coastal Commission approved, periodic dredging of the San Dieguito River mouth to maintain sufficient tidal flow necessary for habitat health. Sand from that dredging program is deposited on the Del Mar Beach in coordination with the SANDAG/City of Del Mar Beach Replenishment Program.

We had been assured during the MLPA process that would be the case. However, if there are doubts that those previous assurances cannot be guaranteed we request designation as a SMCA to provide support for ongoing and future conservation efforts in the San Dieguito Lagoon.

Sincerely,

Dick Bobertz
Executive Director
October 9, 2009

Mr. Ken Wiseman,
Marine Life Protection Act Initiative
c/o California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Mr. Wiseman:

RE: SOUTHERN CALIFORNIA EDISON COMMENTS
MLPA THIRD ROUND OF PROPOSED MARINE PROTECTED AREAS

Southern California Edison (SCE) has been actively engaged in the Marine Life Protection Act Initiative (MLPAI) and the process of designating Marine Protected Areas (MPAs). The third round of proposed MPAs has been distributed, and SCE appreciates the opportunity to comment on the most recent proposals.

In our previous letter, SCE expressed concern regarding the establishment of MPAs adjacent to our two generating facilities, the San Onofre Nuclear Generating Station (SONGS) in San Clemente and the Pebbley Beach Generating Station on Catalina Island. We support the newest revisions that appear to address these issues; however, SCE still has concerns regarding our marine restoration projects and the potential establishment of MPAs within and around these project areas.

Our first concern involves the Wheeler North Reef (WNR) offshore of San Clemente. The WNR is a 172 acre artificial reef completed in September 2008 to mitigate impacts to the San Onofre Kelpbed near the SONGS facility. Although the WNR was not included in the proposed MPAs, SCE is concerned with the establishment of MPAs north of the WNR. The exclusion of fishing activities north of Dana Point could potentially increase fishing pressure on the WNR and could have negative effects on the standing fish stock. SCE encourages the Blue Ribbon Task Force and the MLPAI staff to take into account the potential impacts to reefs and fishing areas not designated as MPAs to ensure that areas such as the WNR are neither overfished nor are the only options for local fisherman.
The second concern is regarding the establishment of an MPA within the San Dieguito Wetlands Project area. We note that the San Dieguito Lagoon and river mouth is a proposed State Marine Reserve (SMR=no take) in all three Third Round Proposals. In addition, the Del Mar Beach is being proposed as a SMR in both Proposals 1 and 2.

As part of SCE’s requirements under the Coastal Development Permit (No. 6-81-330-A) for the operation of SONGS, SCE has undertaken the San Dieguito Wetland Restoration mitigation project. The project will provide 150 acres of coastal wetland habitat and is currently under construction. Construction began in 2005 after a thorough scientific siting and design development process, an exhaustive EIR/EIS permitting process, and development of clear performance standards determined and monitored by independent scientists under the oversight of the California Coastal Commission (CCC). The performance standards must be met for the entire operating life of SONGS Units 2 & 3 and mandate a monitoring period of at least 40 years following completion of the wetland mitigation construction.

SCE is unclear on the timeframe for designating the MPAs. It should be noted however, that the San Dieguito Wetlands Project is still an active construction site. Completion of the project is not expected until the end of 2010 and possible permitting delays could extend construction into 2011. Once construction is completed, restoration and planting activities will continue for a period of over one year. Planting is an involved process and may require manipulation of the wetland areas depending on soils and drainage.

CCC-appointed scientists will be monitoring the San Dieguito Wetlands to ensure compliance. The scientists will be surveying and collecting specimens to establish the performance of the wetlands. To ensure the success of these projects, the monitoring plans and the management activities must not be compromised. This also includes the three reference sites that San Dieguito will be compared to: the Carpenteria Salt Marsh, the Magu Lagoon, and the Tijuana Estuary. The MLPAI staff must take into to account the regulatory requirements and monitoring activities that may be impacted by the designation of an MPA at San Dieguito.

In the event that any performance standards are not met, additional mitigation work may be required which could include modification of the current wetland areas or creation of additional wetlands. This could include excavation and grading. This does not include the routine maintenance. SCE is required to maintain the wetlands; therefore, routine maintenance of berms, access roads, and drainage will be required. SCE requires the ability to construct and conduct maintenance of facilities within the San Dieguito Project area.
Mr. Ken Wiseman  
Page 3  
October 9, 2009  

The San Dieguito Project is closely connected with the City of Del Mar beaches. SCE is concerned that the designation of a MPA along the Del Mar city beaches could impact our ability to maintain an open channel at the inlet of the San Dieguito River. Maintenance of an open channel is required in perpetuity. Designation of the Del Mar city beaches could affect the beach nourishment activities associated with the placement of inlet dredge sand by SCE onto Del Mar beaches.

In summary, the activities at the San Dieguito Wetlands and at the connected Del Mar beach that SCE is obligated to perform for at least the next 40 years include:

- Completion of the wetland restoration construction, scheduled for 2010. This includes wetland and inlet dredging, placement of inlet sand on the adjacent Del Mar Beach and south Solana Beach, completion of least tern islands, and planting of vegetation;

- Physical and biological monitoring of the San Dieguito wetland and control wetlands (including the Carpenteria Salt Marsh, the Mugu Lagoon, and the Tijuana Estuary). The monitoring will involve walking transects and collection and counts of organisms throughout the lagoon and river mouth areas;

- Adaptive management, which could include further construction activities in the San Dieguito Lagoon and beach/ocean inlet area and further plantings;

- Periodic maintenance inlet dredging from the Del Mar Beach and back to the lagoons east of Jimmy Durante Bridge. This includes the intermittent placement of the inlet sand onto the adjacent Del Mar Beach and south Solana Beach.

SCE appreciates the opportunity to provide our comments. Thank you for your consideration of our marine mitigation projects in the South Coast Study Region of the MLPA process. If you have any questions please feel free to contact me at (626) 302-9732.

Sincerely,

David Asti  
Manager, Corporate Environmental Policy
TO: JPA Board  
FROM: Staff  
SUBJECT: Interstate 5 North Coast Corridor Project Draft EIR/EIS

**RECOMMENDATION:**

Direct staff to send comment letter in response to the I-5 North Coast Corridor Draft EIR.

**SITUATION:**

At your Board’s last meeting on September 17, 2010 you considered a draft EIR/S comment letter prepared by JPA staff in response to Caltrans’ proposed project and EIR/S to widen Interstate 5. The widening project would go through the western portion of the San Dieguito River Valley. At that meeting your Board directed staff to make changes to the draft comment letter, and to request that Caltrans extend the public review period for the EIR/S to allow the JPA more time to review the project and EIR/S. Your Board also directed staff to prepare a letter to Sandag recommending they play a more active role in the I-5 widening project and engage the communities to develop a more environmentally sensitive and progressive transportation solution. To further assist JPA staff in preparing the comments your Board formed an ad-hoc subcommittee consisting of four Board members to provide additional input to the JPA’s comment letter.

Subsequently, JPA staff sent a letter to Caltrans requesting they extend the public comment period (Attachment 1). As a result of several requests to do so, Caltrans extended the comment period for the EIR/S by 45 days to November 22, 2010. JPA staff also worked with your Board’s subcommittee on the EIR/S comment letter as well as the letter to Sandag. Both letters will be available for your Board’s signature at today’s meeting (Attachments 2 and 3).

**CAC RECOMMENDATION:**

The CAC members reviewed and provided input to the JPA staff’s draft EIR/S comments at their meeting on September 10, 2010. However, the CAC did not have a quorum at this meeting so an official vote could not be taken.

**ALTERNATIVES**

1. Direct staff to send attached comment letter.
2. Give staff other direction.
Respectfully submitted,

Shawna Anderson
Principal Environmental Planner

Attachments:
1. Letter from JPA asking Caltrans to extend comment period
2. Final draft JPA comment letter
3. JPA letter to Sandag
San Dieguito River Valley
Regional Open Space Park
14103 Highland Valley Road
Escondido, CA 92025
(858) 674-2270  Fax (858) 674-2280
www.sdrp.org

September 20, 2010

Shay Lynn M. Harrison
Branch Chief
Environmental Planning Branch C
Caltrans District 11 (MS 242)
4050 Taylor Street
San Diego, CA 92110

Subject: Request for Extension on Interstate 5 North Coast Corridor Draft EIR/EIS

Dear Ms. Harrison,

The I-5 North Coast Corridor travels through the western gateway to the San Dieguito River Park – a regional 55-mile long open space park from the ocean at Del Mar to Volcan Mountain near Julian. The San Dieguito River Park including the newly restored San Dieguito Lagoon will be impacted by the proposed project. Because of the timing of the DEIR public review period in August and the considerable volume of the document and technical studies, it has not been possible for our JPA Board of Directors to give the attention to this important project that it deserves. We therefore request a 45-day extension be added to the public review period pursuant to CCR Sections 15203 and 15207.

Your prompt response to our request would be appreciated.

Sincerely,

[Signature]

Dick Bobertz
Executive Director
November 19, 2010

Shay Lynn M. Harrison
Branch Chief
Environmental Planning Branch C
Caltrans District 11 (MS 242)
4050 Taylor Street
San Diego, CA 92110

Subject: Comments on Interstate 5 North Coast Corridor Draft EIR/EIS

The San Dieguito River Park Joint Powers Authority (JPA) Board considered the Draft EIR/S for the I-5 North Coast Corridor at their meetings of September 17 and November 19, 2010. Interstate 5 travels across the newly restored San Dieguito Lagoon and through the western portion of the San Dieguito River Park, a 55-mile long regional river valley open space corridor. It bisects the San Dieguito Lagoon as it does through the other San Diego County coastal lagoons, representing a major impediment to east/west tidal flow and connectivity.

The JPA, with representation from each land use jurisdiction within the San Dieguito River Park’s focused planning area, is empowered to plan and maintain the San Dieguito River Park. The adopted San Dieguito River Park objectives include not only the preservation of open space, but to preserve the natural character, visual quality and sensitive resources of the open space corridor, including protection of water resources, and creation of recreational opportunities throughout the Park (San Dieguito River Park Concept Plan, 1994). The San Dieguito Lagoon represents the western gateway to the San Dieguito River Park. While the JPA recognizes the importance of I-5 as a coastal transportation route and the need to keep goods and services flowing efficiently, we also place great value in the role our coastal lagoons play in the region. We support a fair balance between these two vital resources. The project to widen I-5 through this area must not occur at the expense of the San Dieguito River Park and the associated coastal lagoon.

The JPA’s comments specific to the Draft EIR/S are substantial and warrant a recirculation of the DEIR/S with our questions and comments addressed:

1. The Draft EIR/S does not adequately address the need for the project as required by NEPA, in particular the need relative to or in combination with the proposed LOSSAN rail corridor. In Section 1.3 (Need for the Project), a statement is made “even with the proposed improvements (to the rail corridor), capacity would not be sufficient to address anticipated travel demand along the I-5 corridor in 2030”, yet no further explanation or analysis is provided to justify why widening of the I-5 to 14 lanes is needed if public transit along the LOSSAN corridor is expanded (ie, double tracking). Caltrans’ NEPA guidance regulations require explanation of and justification for the purpose and need of a project in an EIS. The Draft EIR/S should provide a quantified comparison of vehicular and rail trips within the I-5 corridor and how implementation of both the I-5 widening
project and double tracking affects those trips. In addition, Table 1.3-11 states that the LOSSAN double tracking (to expand public transit) is a “vision” yet it is included in SANDAG’s 2030 RTP. It is not clear in the Draft EIR/S that expanding public transit would still require a need for the project to the extent proposed. Without this knowledge, it cannot be determined if impacts to the San Dieguito Lagoon wetlands and Park are justified or if other less impactive alternatives are feasible.

2. How does the project fit with the I-5 NCC Corridor System Management Plan (CSMP) with respect to a multi-modal approach to the corridor? Again, the Draft EIR/S does not adequately convey how the different modes of transit work together to meet demand and how public transit would reduce vehicular travel. If Caltrans continues to widen freeways to improve level of service and decrease vehicular travel times then there is no incentive for the public to use public transit. Impacts associated with widening the freeway are numerous and significant and are not adequately justified.

3. Main arterials adjacent to I-5 within the Del Mar/San Diego region, such as Via de la Valle and El Camino Real, are also proposed to be widened. Widening the adjacent roadways will also have significant effects on the San Dieguito River Valley. It is unclear in the Draft EIR/S how the I-5 project may affect vehicular flow and level of service on the area roadways. The Draft EIR/S must adequately address the cumulative impacts of all proposed vehicular roadway/freeway widening in this sensitive coastal area.

4. The EIR/S does not adequately describe the amount of additional freeway right-of-way (R/W) needed for the widening. Figure 10 (page A-25) shows new R/W over the Coast to Crest Trail (east side of freeway), but states that the project would not “interfere with existing trails or planned trails” (page 3.1-44) and “would not result in permanent impacts to any of the trails…” (page A-28). There appears to be a direct conflict in the analysis, which shows new R/W proposed right over the existing Coast to Crest Trail yet a statement that no impacts would occur to the trail. Page 3.1-25 refers to “minor acquisitions” in the San Dieguito River Park but provides no detail on what is proposed within the new R/W. What are the “minor acquisitions” proposed in the San Dieguito River Park?

5. We disagree with the unsubstantiated blanket statement on page A-28 that the project “would not affect the visual quality of the SDRP because they would simply extend the Caltrans’ right-of-way boundary outward slightly and ultimately result in a view of the area adjacent to I-5 very similar to the existing condition.” Figures 2-2.10 and 2-2.11 show an expansion of 48-60 feet into the park and directly over the Coast to Crest Trail. The DEIR/S must provide specifics, as required by CEQA Section 15126.2, to substantiate the conclusion of no impact.

6. The first paragraph on page A-29 addressing the Coast to Crest Trail completely dismisses any impacts to the trail and San Dieguito River Park as *de minimis*. We strongly disagree with that assessment, which is based on vague unsubstantiated statements that appear to ignore the addition of 120 feet of freeway lanes, tall retaining walls, higher traffic volumes, increased shadowing in the river channel from a wider bridge, loss of habitat, and new R/W over the Coast to Crest Trail. Incremental additions
to the freeway width and vehicular use over the past twenty years has contributed substantially to adverse effects on the River Valley from the freeway, which would be made worse by the proposed project. These impacts must be addressed in greater detail and mitigated by the project.

7. The buffer design would reduce the footprint needed for the expansion through the sensitive coastal areas by 26 feet. Minimizing the project footprint should be one of the project objectives.

8. The project description is not clear on what exactly is proposed northbound at Via de la Valle. The configuration for the Via de la Valle northbound section appears to be a 12+4 configuration (not 8+4 or 10+4 as described in the DEIR) since the auxiliary lane apparently would remain. The DEIR/S does not accurately describe the project details. Please clarify what is proposed for the existing auxiliary lane northbound at Via de la Valle, which adds another lane to the existing 5 lanes northbound.

9. The text in the 2nd paragraph on page A-27 that discusses the existing trails within the lagoon area should be updated. For example, the Coast to Crest Trail lagoon segment is not proposed, but is now complete from Horsepark to Jimmy Durante and includes a freeway undercrossing. Inaccurate information misleads the decision makers and does not allow for an accurate assessment of impacts.

10. The last sentence of this same paragraph conflicts with the statement on Figure 10 “not subject to 4(f) (private)” shown for the area that contains the existing recreational trail and on land that is clearly part of the San Dieguito River Park. Clearly, public open space and recreational trails are subject to 4(f) analysis. In addition, the aerial background should be updated to show the current condition of newly created wetlands in order to accurately analyze impacts to the wetlands. Inaccurate information misleads the decision makers and does not allow for an accurate assessment of impacts.

11. The Coast to Crest Trail lagoon segment is not clearly described or shown accurately in the Draft EIR/S. Figure 9 describes it as “proposed hiking trail”. The trail already exists and is not a “hiking trail” but a regional public multi-use trail (pedestrians, bicycles, and horses) and the western extent of the CTC Trail.

12. During the widening of I-15 Managed Lanes in the Lake Hodges area the Coast to Crest Trail undercrossing was impacted by the lengthy freeway widening construction period and was not rebuilt in a satisfactory condition. Litter and drainage impacts occurred throughout the multi-year construction period and adequate notice was not provided to JPA staff and trail users during periods of trail closures. Trail facilities such as bollards, fences, benches, and signs were also damaged or removed by Caltrans’ contractors and, in some cases, were not repaired or replaced. Better communication and coordination with JPA staff must occur during project implementation. Please add the JPA to the agencies with which Caltrans will be coordinating and clearly describe in detail what communication and coordination you plan to undertake with the JPA.
13. Aerial backgrounds used for base maps are outdated and do not show the dramatic changes in the lagoon area from the restoration/creation of over 150 acres of wetlands, a new tidal basin just west of I-5, new tidal wetlands on both sides of freeway, and the new Coast to Crest Trail lagoon segment. Views of this area from the freeway and surrounding area have been greatly enhanced and the coastal wetland and upland habitat has been expanded and greatly improved. Inaccurate information misleads the decision makers and does not allow for an accurate assessment of impacts.

14. Of great concern to the JPA is the lack of community enhancements proposed for this portion of the North Coast Corridor that includes the western gateway to the regional 55-mile long San Dieguito River Park. The I-5 corridor provides vehicular access and public views to the park but at the same time represents the major urban intrusion into the valley as it does for the other coastal lagoons in San Diego County. Proposed I-5 widening will negatively impact this area by greatly expanding the freeway expanse through the lagoon and park by as much as 146 feet (Figure 2-2.10). Several opportunities for community enhancements were documented in Caltrans’ Community Enhancement Plan (Jan 2008) including an extended trail along San Dieguito Drive and a nature center east of I-5 visible from the freeway, but are not proposed as part of the I-5 NCC project. A lack of public parking also exists in this area to provide adequate public access to recreational facilities that were recently expanded. In addition, the Coast to Crest Trail is incomplete west of Jimmy Durante. The JPA has obtained over $7.1 million in grants and donations to acquire open space and build public park facilities in this area (in addition to SCE’s $86M wetlands mitigation project) that could be further expanded and enhanced. The I-5 NCC does not contribute to any enhancements in the San Dieguito River Park area, a substantial deficiency in the project.

15. The JPA opposes traditional sound walls along the I-5 lagoon corridor because they would block scenic views to the lagoon, valley floor, and ocean beyond. Coastal estuarine views define the character of the coastal drive through north San Diego County. These views would be destroyed by sound walls that also would form a tunnel along the freeway. We agree with the impact assessment in the Draft EIR/S of sound wall 573 described on page 3.15-9 and oppose any traditional noise barriers (e.g., S603).

16. Because of the negative visual impact that sound walls would create through the lagoon area, the Draft EIR/S should address other design solutions to attenuate freeway noise along the Coast to Crest Trail as feasible mitigation measures required by CEQA/NEPA. Since tire/road noise accounts for 75-90% of overall roadway noise (I-5 NCC Traffic Noise Basics), then alternative freeway surface materials that reduce vehicular wheel sound should be examined as a mitigation measure. Also since wind is an important meteorological factor that effects noise levels and off shore wind is prevalent adjacent to I-5 in the San Dieguito River Valley, shorter noise walls that may reduce noise at sensitive receptors below the freeway elevation could also be examined as a mitigation measure (the trail is located at least fifteen feet below the freeway elevation). The DEIR/S should address other design solutions to attenuate freeway noise.

17. The information in the Draft EIR/S about retaining walls proposed for both sides of the freeway is inadequate to accurately determine impacts to habitat and scenic views. The
EIR/S should describe exposed height, design, length, and proposed landscaping, etc. for these walls. Native landscaped buffers should be incorporated into any wall design within the San Dieguito River Valley specifically adjacent to the existing preserved open space.

18. Recent landscaping done by Caltrans has included planting acres of ice plant along widened freeway corridors. Some varieties of ice plant, as well as other invasive non-native species, spread to adjacent native habitat causing significant impacts to native plants and the wildlife that depend on them and, therefore, should be strictly forbidden within the I-5 NCC. All landscaping within and adjacent to wetlands and adjacent uplands should be required to be native species.

19. The information in the Draft EIR/S about widening San Dieguito Bridge over the river lacks the specificity needed to accurately determine impacts to habitat, hydrology, tidal flushing, and to the existing trail undercrossing. We are opposed to adding any new piers in the already impacted river. Page 3.9-5 under San Dieguito River states that the bridge would be widened by 39 feet on each side. How is this widening to be accomplished without impacting the existing trail, habitat, or drainage channels?

20. Widening the San Dieguito River bridge without lengthening its span would cause unmitigated impacts because the only connection between the west and east sides of the coastal estuary/river being under the freeway would be further constrained. As stated on page 3.17-5 of the Draft EIR/S, the freeway represents a barrier to east/west wildlife movement across the lagoon. An opportunity exists to provide habitat connection between the west and east sides, but instead the project proposal is to further constrain the only link by widening the concrete bridge. The conclusions reached in the Draft EIR/S about wildlife movement are unsubstantiated calling the trail under the freeway a wildlife trail. The concrete trail under the San Dieguito River bridge does not function as a wildlife corridor. No connecting habitat exists on the north side of the bridge and the south side is also constrained with little habitat connectivity. Widening the bridge without providing a better wildlife corridor connection will further constrain wildlife movement in this corridor and is not mitigated by the project.

21. How are the two existing drainage channels paralleling I-5 impacted by the project? Coast to Crest Trail bridges exist over both drainages that drain into the river. The Draft EIR/S does not describe these or identify impacts.

22. Why doesn’t the EIR/S address a potential DAR to the Fairgrounds? The Draft EIR/S (page 1-9) states “A DAR at Via de la Valle may be analyzed in conjunction with the anticipated traffic impacts from the Del Mar Fairgrounds project.” This statement is outdated since the Fairgrounds Master Plan Draft EIR circulated at the end of 2009 did not include a DAR. Not providing this information is potentially piecemealing the project.

23. The biological analysis must be updated to reflect the current condition of the lagoon since SCE created 150 acres of new tidal wetlands including a new tidal basin on the west side of the freeway and several acres of new marsh habitat on both sides of the freeway. The restoration has substantially increased the number and species of fish and birds at the
lagoon as well as the quality of habitat. The biological surveys were conducted prior to the restoration (lagoon technical study is dated June 2006, which is during construction of the restoration project) and do not reflect the existing condition. In fact, if the surveys were conducted during lagoon restoration construction then the results may be even further underestimated. Indirect impacts to species are of particular concern from increases in noise (temporary during construction and permanent after project completion), urban intrusion, particulate matter, edge effects, litter, and visual. Inaccurate information misleads the decision makers and does not allow for an accurate assessment of impacts.

24. The floodplain and hydrologic analyses are based on conditions that existed prior to the San Dieguito Lagoon restoration and must be updated to accurately assess the impacts of the project since areas were dredged and new wetlands created.

The JPA appreciates the opportunity to comment on the Draft EIR/S. Pursuant to CCR 15088.5, we strongly recommend that Caltrans recirculate the DEIR/S prior to its certification as it is presently inadequate in its evaluation of significant effects and mitigation regarding the San Dieguito River Park. The JPA would be pleased to work with Caltrans to identify design solutions to mitigate some of the impacts to the Park. Please keep us informed as the environmental process continues and feel free to contact our Environmental Planner, Shawna Anderson at shawna@sdrp.org if you have any questions about our comments.

Sincerely,

JPA BOARD OF DIRECTORS

Richard Earnest, Del Mar City Council  Carl DeMaio  
JPA Board Chair  San Diego City Council

Sherri Lightner  Dianne Jacob  
San Diego City Council  Supervisor, County of San Diego

Olga Diaz  Pam Slater-Price  
Escondido City Council  Supervisor, County of San Diego

Jim Cunningham  David W. Roberts  
Poway City Council  Solana Beach City Council

Tom Golich  
Citizens Advisory Committee
November 19, 2010

Hon. Lori Holt Pfeiler, Chair
San Diego Association of Governments Board of Directors
401 B Street, Suite 800
San Diego, CA 92101

Dear Chair Pfeiler:

The San Dieguito River Park JPA is extremely concerned about the current approach being taken regarding the proposed project to widen Interstate 5, specifically as described in the I-5 North Coast Corridor Draft EIR/EIS currently out for public review.

It is our strong belief that a more holistic approach must be taken to this project that considers San Diego’s unique coastal communities and environment and the need for a less impactive and more environmentally sensitive project – an approach that favors innovative solutions to transporting people over the traditional approach of continually widening our freeways.

We urge SANDAG’s Board of Directors to play a more active role in this project and engage with Caltrans and local communities to explore alternative and more environmentally sensitive solutions as envisioned in the 2030 RTP: Pathways for the Future. As the regional planning agency for transportation, SANDAG’s role in this project is critical.
Thank you for considering our view and we look forward to future communication with your agency.

Sincerely,
JPA BOARD OF DIRECTORS

Richard Earnest, Del Mar City Council
JPA Board Chair

Carl DeMaio
San Diego City Council

Sherri Lightner
San Diego City Council

Dianne Jacob
Supervisor, County of San Diego

Olga Diaz
Escondido City Council

Pam Slater-Price
Supervisor, County of San Diego

Jim Cunningham
Poway City Council

David W. Roberts
Solana Beach City Council

Tom Golich
Citizens Advisory Committee
TO: JPA Board
FROM: Staff
SUBJECT: Workers Compensation Insurance

RECOMMENDATION:

Direct the Chair to send a letter to the County Chief Administrative Officer requesting that the County pursue finding a way to continue providing Workers Compensation coverage to the JPA.

SITUATION:

Staff has been contacted by the County Human Resources Department informing us that the County, which has been providing the JPA’s Workers Compensation Insurance for the last six years under its own self-insurance policy, can no longer do it. County Counsel has determined that it is not legal for the County to provide Workers Compensation Insurance for another entity and the JPA was asked to find another carrier. For the last six years the County has assessed a premium payment which is deducted biweekly from the JPA’s funds along with all other payroll deductions.

We immediately obtained two quotes: one from the Special District Risk Management Authority, which quoted $19,500 per year, and one from the State Workers Compensation Fund, which quoted $36,000 per year. These numbers far exceed the amount your Board budgeted for Workers Compensation insurance in FY 2010/11, which is $3,961 for coverage by the County. So if the JPA has to make this switch, the lowest outside quote would increase our budget by over $15,500 every year.

JPA Counsel Wayne Brechtel spoke with County Counsel Dennis Floyd. Mr. Brechtel determined that the County Counsel’s opinion was correct that the current arrangement is inappropriate. Staff was initially told that to continue the current arrangement, two things must happen: (i) The JPA must have its own Certificate of Self Insurance that says the County is administering its claims, and (ii) the County must have a separate Certificate that allows it to administer 3rd party claims. Neither certificate is in place now. Mr. Floyd told Mr. Brechtel that he would ask if the County wants to pursue the certificate that would allow it to be a 3rd party administrator, but he was not optimistic.

On a secondary issue, Mr. Floyd said that the actuarial folks have determined that the County is not charging enough for its insurance, so the cost may be going up significantly. Thus, if the County pursues the additional certificate, it would seek to recover the cost from the JPA in addition to charging higher premiums because of the
JPA staff checked with Brian Hagerty at the County Finance Department about the comment that the County’s cost may be going up significantly. Brian responded, “The State’s Workers’ Compensation Insurance Rating Board (WCIRB) has announced that they will increase “pure premium rates” for a wide range of job classifications in January 2011. Those rates are an estimate of the cost per $100 of wages that an employer might expect to pay for WC costs, and are widely used by the private sector. However, pure premium rates only make up a small part of our overall rate formula. 80% of your rate is based on historical claims expense, and the other 20% is based on WCIRB pure premium rates applied to the salaries and job classifications that exist to your organization. At this point, we can’t say if your contribution rate will change at all for FY2011-12.”

For your information, LAFCO, which, like the JPA, is an independent agency, is covered by the County for workers compensation insurance, according to Mike Ott, the Executive Officer. He says he has not been contacted by County Human Resources about this issue.

Staff recommends that it would be in the JPA’s best interests to continue to receive Workers Compensation insurance coverage through the County if at all possible. We believe that the cost differential is sizable enough that your Board should request additional consideration of this matter from the County before turning to other, far more expensive, providers. Therefore staff recommends that the JPA Chair send a letter to the County Chief Administrative Officer requesting that the County continue to pursue identifying an alternative solution for the provision of workers compensation for the JPA.

In addition, staff recommends that the JPA Board adopt a resolution approving its own Certificate of Self-Insurance (handout at meeting). If this approach is acceptable to the County and meets the needs of the situation then this resolution would be required. If this approach is not acceptable to the County or if it is determined that it does not meet the needs of the situation, then an alternative resolution may be necessary.

**CAC RECOMMENDATION:**

This item has not been reviewed by the CAC.

**ALTERNATIVES**

1. Direct chair to send letter to County CAO as described and adopt self-insurance resolution.
2. Do not send letter to CAO and adopt alternative resolution applying for coverage from Special District Risk Management Authority.

Respectfully submitted,

Dick Bobertz
Executive Director
TO: JPA Board

FROM: Staff

SUBJECT: Background Check Policy

RECOMMENDATION:

Adopt Draft Policy

SITUATION:

At your Board’s September 17 meeting, your Board approved requiring a background check process for volunteers in certain capacities. At that meeting, your Board directed staff to prepare a policy that will describe how the background checks will be applied and which volunteers are subject to the policy. Other issues that were specifically raised to be addressed in the policy related to privacy of the background check results, how the decisions would be made regarding whether an applicant is disqualified and whether someone needs to have a background check if they have already received a check through another agency.

CAC RECOMMENDATION:

The CAC reviewed this item at their November 4th meeting. They approved the following motion on a vote of 12 in favor and 3 opposed: Approve the policy in principle with the additional comments suggested by various CAC members:

Section 1a. Add Citizens Advisory Committee chair (done; also added JPA Board)
Section 2a.6. Add “relevant” (done)
Section 2a.7. What does this mean? (clause has been deleted)

Concern was raised about one person (the Executive Director) having the authority to decide whether an applicant must be disqualified or not. The suggestion was made that perhaps the decision would be made by the Executive Director in consultation with the JPA Chair and Counsel. Alternatively, the Executive Director’s decision could be appealable to the JPA Chair and Counsel.

ALTERNATIVES

1. Adopt attached draft policy.
2. Revise policy
3. Give staff other direction.
Respectfully submitted,

Susan A. Carter  
Deputy Director

Attachments:  
  1. Draft Background Check Policy
PURPOSE

The purpose of this policy is to establish procedures to protect the safety of the public through the use of criminal background checks for volunteers who represent the San Dieguito River Park and interact with the public in that capacity.

BACKGROUND

Volunteers for the San Dieguito River Park work in various capacities, frequently out on trails where they may encounter individual hikers, or working closely with children on park projects. The Board has determined that it is important that individuals who volunteer at the River Park to do activities where they could interact with the public or appear to represent the River Park in some official capacity do not have a violent criminal record or sex offender status.

POLICY

It is the policy of the San Dieguito River Park Joint Powers Authority (JPA) that:

1. A criminal background check will be conducted as a condition of acceptance for volunteer status, consistent with Section 1a of this policy.
   a. All new and current volunteers will have a background check performed, except for the following types of volunteers:
      • One time or occasional volunteers such as those who attend publicly-advertised monthly habitat restoration workparties;
      • Joint Powers Authority Board members
      • Citizens Advisory Committee Chair and Citizens Advisory Committee members and other committee members of various ad hoc and standing committees;
      • Individuals who provide proof of previous security clearance within the past two years;
      • Others as determined by the Executive Director.

2. The results of the criminal background check may be considered disqualifying, depending on the nature and circumstances of the conviction(s), as described in Section 2a of this policy.
   a. Any crime, misdemeanor or felony where the volunteer applicant was the perpetrator, involving children as either a victim or an accomplice is cause for exclusion. The
following disqualifiers will be used as a guide in determining the volunteer’s eligibility.

**Guilty or Plea of guilty or no contest regardless of adjudication to the following:**
1. All Sex Offenses (no time limit)
2. All Felony Violence (no time limit)
3. All Felony Offense (past 10 years)
4. All Misdemeanor Violence (past 7 years)
5. All Misdemeanor Drug and Alcohol (3 years or multiple in past 10 years)
6. Any other relevant Misdemeanor (past 3 years)
7. A documented pattern of irresponsible behavior.

3. Results of the background check will be provided only to the Executive Director of the JPA. The privacy of the information obtained through the background check will be respected and not distributed or posted in public forums except as may be required by law. Information may be shared with the JPA Board and legal counsel as the need arises.

4. If a volunteer’s background check includes a charge set forth on the list of disqualifiers above, the JPA Executive Director shall immediately send a letter to the applicant informing him/her of the results and to disqualify that individual from volunteering. If the volunteer disputes the results, it will be up to the volunteer applicant to provide to the testing agency any documentation required to support his claim. The final decision will be made by the Executive Director.

5. Cost of the background check for volunteers, estimated at $20 per person, will be paid from the JPA’s General Fund.

*Adopted by the JPA Board on (DATE)*
TO: JPA

FROM: Staff

SUBJECT: Del Mar Purchase of Fairgrounds

RECOMMENDATION:

Send attached letter in support of AB 181 to allow the City of Del Mar to buy the Del Mar Fairgrounds.

SITUATION:

The City of Del Mar has been working with state legislators and the Governor’s office to explore the possibility of buying the Del Mar Race Track and Fairgrounds. AB 181 (attached) has been introduced and will possibly be considered in November. A City of Del Mar Memorandum explaining the specifics of the proposal that was presented to the Del Mar City Council on 10/18/10 is also attached, as well as a followup memorandum dated 11/8/10. The 22nd District Agricultural Association has provided a letter (attachment 4) with arguments against the purchase by the City of Del Mar.

CAC RECOMMENDATION

The CAC voted 14 in favor, 1 opposed, 1 abstained to recommend to the JPA Board in favor of sending a letter in support of AB 181, which would allow the City of Del Mar’s purchase of the Del Mar Fairgrounds. The suggestion was also made that there should be some guarantees of revenue to the JPA associated with the purchase, recognizing that the legislation may need to be amended for that purpose.

Attachments:
1. Text of AB 181
2. City of Del Mar Staff Report 10/18/10
3. City of Del Mar Staff Report 11/8/10
4. Letter from 22nd DAA to JPA
5. Draft Letter of Support for AB 181
BILL NUMBER: AB 181

AMENDED

BILL TEXT

AMENDED IN SENATE OCTOBER 6, 2010
AMENDED IN SENATE SEPTEMBER 4, 2009

INTRODUCED BY Assembly Member Baes Saldana

(Principal coauthor: Senator Steinberg Kehoe)

FEBRUARY 2, 2009

An act to amend and supplement the Budget Act of 2009 (Chapter 1 of the 2009-10 Third Extraordinary Session) by amending Section 3.90 of, and adding Section 3.91 to, that act, relating to the State Budget, and declaring the urgency thereof, to take effect immediately. An act to add Sections 3873.1 and 3873.2 to the Food and Agricultural Code, and to add Article 11 (commencing with Section 54260) to Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, relating to the Del Mar Race Track and Fairgrounds, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 181, as amended. Baes Saldana.

The Budget Act of 2009 (Chapter 1 of the 2009-10 Third Extraordinary Session, as amended) made appropriations for the support of state government for the 2009-10 fiscal year. The act, among other things, authorized the Director of Finance to reduce items of appropriation to reflect a reduction in employee compensation achieved through the collective bargaining process or through existing administrative authority in the total amounts of $1,477,917,000 from General Fund items and $973,058,000 from items relating to other funds.

This bill would reduce those amounts to $1,052,917,000 from General Fund items and $658,058,000 from items relating to other funds. In addition, the bill would authorize the Director of Finance to reduce, with specified exceptions, items of appropriation for state operations in the total amounts of $425,000,000 from General Fund items and $312,000,000 from items relating to other funds. The bill would make the director's authority to make those reductions contingent on the imposition of no more than 2 furlough days per month on state employees.

Existing law provides that the state is divided into agricultural districts in which 50 or more persons, who are residents of a district, may form a district agricultural association for specified purposes, including holding fairs and constructing, maintaining, and operating recreational facilities. Existing law provides that District 22 is the County of San Diego.

Existing law authorizes the Director of General Services to dispose of surplus state property, subject to specified conditions, including that the net proceeds of the sale be paid into the Deficit
Recovery Bond Retirement Sinking Fund Subaccount, which is a continuously appropriated fund.

This bill would create District 22a, which would consist of all of that real property that is a portion of District 22 that is owned by the 22nd District Agricultural Association, which includes that real property commonly known as the Del Mar Race Track and Fairgrounds located in the City of Del Mar and certain other property in the City of San Diego, and would prescribe certain matters applicable to officers of the 22nd District Agricultural Association and the District 22a Agricultural Association. The bill would, among other things, authorize the Department of General Services to sell all of the real property that comprises District 22a and related personal property to the City of Del Mar; require the net sale proceeds to be deposited into the District 22a Disposition Fund, which the bill would create in the State Treasury; and require the department to report annually to the Legislature on the status of the purchase price balance.

This bill would require District 22a to be abolished and all funds in the District 22a Disposition Fund to be transferred to the General Fund, upon sale of all property that comprises District 22a, and ultimately be deposited into the Deficit Recovery Bond Retirement Sinking Fund Subaccount, a continuously appropriated fund thereby resulting in an appropriation.

This bill would also authorize the City of Del Mar to enter into an agreement with the Department of General Services to purchase all of the real property that comprises District 22a and any related personal property, for $120,000,000, as prescribed. The bill would authorize the city to issue revenue bonds, as specified, to finance a portion of the property purchase. The bill would require the city, if it exercises its authority to purchase the property, to establish a nonprofit corporation to manage the operation and maintenance of the property, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.


Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 3873.1 is added to the Food and Agricultural Code, to read:

3873.1. (a) There is hereby created District 22a, which consists of all of that real property that is a portion of District 22 that is owned by the 22nd District Agricultural Association, which includes that real property commonly known as the Del Mar Race Track and Fairgrounds located in the City of Del Mar and that real property in the City of San Diego with parcel numbers 299-042-01, 299-042-02, 302-090-11, and 304-020-17.

(b) Notwithstanding any other law, any officer of the District 22a Agricultural Association may also be an officer of the 22nd District Agricultural Association and shall be a resident of District 22. All otherwise applicable ethical duties and restrictions, including those in Section 1090 of the Government Code, subdivision (a) of Section 8920 of the Government Code, and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code), shall apply to the officers of both the 22nd District Agricultural Association and the District 22a Agricultural Association, and shall apply in regard to the transactions contemplated by Section 3873.2.
(c) Upon the formation of the District 22a Agricultural Association, the 22nd District Agricultural Association shall also transfer all personal property it owns to the District 22a Agricultural Association.

SEC. 2. Section 3873.2 is added to the Food and Agricultural Code, to read:

3873.2. (a) The District 22a Disposition Fund is hereby created in the State Treasury.

(b) Notwithstanding any other law, the Department of General Services may sell all of the real property that comprises District 22a and related personal property to the City of Del Mar for one hundred twenty million dollars ($120,000,000) or such other price as the Department of General Services deems to be the reasonable fair market value of the property, under terms and conditions satisfactory to the Director of General Services. The District 22a Agricultural Association shall not enter into any contract, lease, or other agreement affecting the use or operation of the real property for a period that exceeds three months, and all of these contracts, leases, or other agreements shall contain a provision that they may be canceled upon a 30-day notice from the Department of General Services. The Department of General Services shall be reimbursed from the proceeds of the sale of the property for any reasonable cost or expense incurred for the transactions described in this section. Additionally, to the extent bonds issued by the State Public Works Board or other entity involve the property to be sold pursuant to this section, all issuer and trustee related costs associated with the review of any proposed sale, together with the costs related to the defeasance or retirement of any bonds, which may include the cost of nationally recognized bond counsel, shall be paid from the proceeds of any sale or lease authorized by this section. The net proceeds from the sale shall be deposited into the District 22a Disposition Fund.

(c) Thirty days prior to executing a transaction for the sale of real and personal property as authorized by this section, the Director of General Services shall report in writing to the chairs of the fiscal committees of the Legislature all of the following:

(1) The financial terms of the transaction.

(2) A comparison of fair market value for the real property and the terms listed in paragraph (1).

(3) Any basis for agreeing to terms and conditions other than fair market value.

(d) As to the real property sold pursuant to this section, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. If, however, the Director of General Services determines that there is little or no potential for mineral deposits, the reservation may be without surface right of entry above a depth of 500 feet, or the rights to prospect for, mine, and remove the deposits shall be limited to those areas of the real property conveyed that the director determines to be reasonably necessary for the removal of the deposits.

(e) The Department of General Services shall report in writing to the Legislature on or before June 30 of each year on the status of the payments by the purchaser toward the balance of the purchase price for the sale of property authorized by this section, until the balance is fully paid. A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(f) Upon the sale of all property that comprises District 22a,
District 22a shall be abolished and all funds in the District 22a Disposition Fund shall be transferred to the General Fund for use consistent with subdivision (g) of Section 11011 of the Government Code and Section 9 of Article III of the California Constitution.

(y) The sale of the real property authorized by subdivision (b) is made on an "as is" basis, without the customary representations and warranties as to known conditions, including any unresolved issues involving those portions of the property that are subject to the public trust doctrine, and shall be exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code. Upon title to the parcel vesting in the purchaser or transferee of the property, the purchaser or transferee shall be subject to any local governmental land use entitlement approval requirements, including local zoning as adopted by the Cities of Del Mar and San Diego within their respective jurisdictions. Uses for the property within the jurisdiction of the City of Del Mar shall be consistent with the existing uses at the time of the property transfer that are permissible under the City of Del Mar's "Fairgrounds - Racetrack" land use designation as provided in the City of Del Mar's certified local coastal program, which shall serve as the applicable local coastal program for the property within the City of Del Mar until the City of Del Mar adopts and the California Coastal Commission certifies an amendment to the local coastal program pursuant to Article 2 (commencing with Section 30510) of Chapter 6 of Division 20 of the Public Resources Code. Upon title to the parcel vesting in the purchaser or transferee of the property, the purchaser or transferee shall also be subject to Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code.

SEC. 3. Article 11 (commencing with Section 54260) is added to Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code , to read:

Article 11. Del Mar Race Track and Fairgrounds

54260. For purposes of this article, the following terms shall have the following meanings:

(a) "City" means the City of Del Mar located in San Diego County.

(b) "Del Mar property" means the real property that comprises District 22a as described in Section 3873.1 of the Food and Agricultural Code, and any related personal property.

(c) "Revenue bond" means any bond, warrant, note, or other evidence of indebtedness payable from funds other than the proceeds of the city's ad valorem taxes or assessments levied without limitation as to rate or amount upon property in the city.

54261. Notwithstanding any other law, the city may enter into an agreement with the Department of General Services for the purchase of the Del Mar property, consistent with the requirements of this section and Section 3873.2 of the Food and Agricultural Code. The purchase price shall be one hundred twenty million dollars ($120,000,000) or such other price as the Department of General Services deems to be the reasonable fair market value of the property.

54262. (a) The city may issue revenue bonds, pursuant to this article or any other revenue bond law under which the city is otherwise authorized to issue revenue bonds, for the purpose of financing or refinancing the acquisition, operation, improvement, or maintenance of the Del Mar property and any costs related thereto,
including, but not limited to, the funding of reserve funds and the
costs of issuing and carrying the revenue bonds.

(b) The city may issue the revenue bonds after the city council
authorizes the issuance of the revenue bonds by adopting a resolution
or enacting an ordinance to that effect. The resolution or ordinance
may provide, among other things, for the following:

(1) The bonds be issued as serial bonds, term bonds, installment
bonds, or any combination thereof.

(2) The date or dates to be borne by the bonds.

(3) The time or times of maturity of the bonds.

(4) The interest, whether fixed or variable, to be borne by the
bonds.

(5) The time or times when the bonds shall be payable.

(6) The place or places where the bonds shall be payable.

(7) The denominations, form, and registration privileges of the
bonds.

(8) The manner of execution of the bonds.

(9) The terms of redemption.

(10) Any other terms or conditions that the city determines to be
necessary.

(c) The city may issue the bonds at public or private sale or on a
negotiated sale basis and at the prices, above or below par, as the
city determines.

54263. The principal and interest of revenue bonds issued by the
city pursuant to this article shall be payable from the nontax
revenues derived from the operation of the Del Mar property, and
neither the payment of the principal nor interest of the bonds
constitutes a debt, liability, or obligation of the city, except as
described in this section, or of the State of California. All bonds
issued by the city pursuant to this article shall contain a recital
on their face that neither the payment of the principal nor any part
thereof nor any interest thereon constitutes a debt, liability, or
obligation of the city, except as described in this section, or of
the state.

54264. (a) If the city exercises its authority to purchase the
Del Mar property, revenues derived by the city from the operation of
the Del Mar property, including, but not limited to, revenues from
fairs, expositions, and exhibitions, and lease payments for the race
track or other facilities on the property, shall be deposited into
the Del Mar Property Revenue Fund, to be established by the city. The
fund shall be comprised only of these revenues and no other moneys
shall be deposited into the fund. Moneys in the fund shall be used
for the purpose of retiring revenue bond debt and any other property
purchase obligations incurred pursuant to this article, as provided
in subdivision (b).

(b) Subject to any priorities created by the pledge of particular
moneys in the fund to secure any issuance of bonds of the city, to
the operation and maintenance costs incurred in the operation of
the Del Mar property, to reserve funds set aside for the renewal and
replacement of, and improvement to, the facilities of the Del Mar
property, and to reasonable administrative costs incurred by the city
in implementing this article, all moneys in the Del Mar Property
Revenue Fund shall be held in trust for the security and payment of
bonds and other property purchase obligations, and shall not be used
or pledged for any other purpose while any bonds or other property
purchase obligations are outstanding and unpaid.

54265. To the extent that the provisions of this article are
inconsistent with any other provisions of any general statute or
special act or parts thereof, the provisions of this article shall be
deemed controlling.
54266. The holder of any bond issued pursuant to this article may by mandamus or other appropriate proceeding require and compel the performance of any of the duties imposed upon the city or upon any official or employee or assumed by any thereof, in connection with the purchase, acquisition, operation, improvement, or maintenance of the Del Mar property, or the collection, deposit, investment, application, and disbursement of revenues derived from the Del Mar property, or in connection with the deposit, investment, and disbursement of the proceeds received from the sale of bonds under this article. The enumeration of these rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds issued pursuant to this article.

54267. (a) If the city purchases the Del Mar property pursuant to this article, the city shall form a nonprofit corporation, with the city as the sole member of the corporation, to oversee the operation and maintenance of the Del Mar property. The nonprofit corporation shall be established by city ordinance which, consistent with the provisions of this section, shall provide for, at a minimum, the board of directors and the administrative authority of the corporation, including the authority to operate and maintain the Del Mar property.

(b) The corporation shall consist of nine members, to be appointed by the city, as follows:

1. The city shall appoint the executive director of the San Dieguito River Park Joint Powers Authority. The executive director may be represented at board meetings by a deputy who is designated by the executive director.

2. The city shall appoint directors nominated as follows, if the nominated directors meet the qualifications in subdivision (c):
   A. Five directors nominated by the City of Del Mar.
   B. One director nominated by the City of Solana Beach.
   C. One director nominated by the City of San Diego.
   D. One director nominated by the County of San Diego.
   
(c) The directors appointed pursuant to paragraph (2) of subdivision (b) shall meet the following qualifications:

1. The nominated director shall be a resident of the nominating jurisdiction.

2. The nominated director shall not be an elected official.

3. The nominated director shall have no fewer than 10 years of experience in the business, administrative, or legal fields and have any other skills or qualifications, as determined by the city, necessary to carry out the duties and responsibilities related to the operation and maintenance of the Del Mar property.

4. The initial board of directors shall include no more than three of the District 22a Agricultural Association board of directors. A director from the District 22a Agricultural Association board nominated pursuant to this paragraph shall serve a term of one year. To the extent not prohibited by the charter of the nonprofit corporation, the City of Del Mar may renominate a director who is appointed pursuant to this paragraph to serve subsequent terms.

(d) The nonprofit corporation established pursuant to this section shall be subject to the requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)), the Political Reform Act of 1974 (Chapter 1 (commencing with Section 81000) of Title 9), and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(e) To the extent not prohibited by law, the nonprofit corporation shall retain personnel of the District 22a Agricultural Association for a period of at least one year and honor any union personnel
contracts in place at the time that the city acquires the Del Mar property.

(F) (1) The nonprofit corporation shall report annually to the city regarding the operation and maintenance of the Del Mar property, as directed by the city.

(2) The city shall report annually to the Legislature regarding the operations of the fairgrounds and the race track. The city shall also continue communications with the Department of Food and Agriculture regarding fair operations.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to enable the Department of General Services to generate revenues for the state at the earliest possible time, it is necessary for this act to take effect immediately.

—SECTION 1.—The Legislature hereby finds and declares all of the following:

(a) The imposition by the Governor of a third furlough day each month for state employees is unlikely to achieve its goal of saving approximately four hundred twenty-five million dollars ($425,000,000) from the General Fund in the 2009-10 fiscal year.

(b) The third furlough day will likely result in all of the following:

(1) Revenue loss of up to three hundred sixty million dollars ($360,000,000) from the General Fund in the 2009-10 fiscal year.

(2) Additional and significant loss of federal funds due to the inflexible manner in which the furloughs have been implemented across the whole of the executive branch without regard to fund source.

(3) Diminished or delayed services to the public.

(4) Additional and unnecessary hardship on state employees who have already endured a nearly 10 percent reduction in compensation due to the imposition of two furlough days each month.

(c) It is the intent of the Legislature to eliminate the need for the third furlough day by providing the Governor with the authority to achieve, through other means, savings equivalent to those originally anticipated to occur as a result of the implementation of the third furlough day.

—SEC. 2.—Section 3.90 of the Budget Act of 2009 is amended to read:

Sec. 3.90. (a) Notwithstanding any other provision of this act, each item of appropriation in this act, with the exception of those items for the California State University, the University of California, Hastings College of the Law, the Bureau of State Audits, the Legislature (including the Legislative Counsel Bureau), and the judicial branch, shall be reduced, as appropriate, to reflect a reduction in employee compensation achieved through the collective bargaining process for represented employees or through existing administration authority and a proportionate reduction for nonrepresented employees (utilizing existing authority of the administration to adjust compensation for nonrepresented employees) in the total amounts of $1,952,917,000 from General Fund items and $658,058,000 from items relating to other funds. The Director of Finance shall allocate the necessary reductions to each item of appropriation to accomplish the employee compensation reductions required by this section.

(b) The Department of Personnel Administration shall transmit proposed memoranda of understanding to the Legislature promptly and shall include with each such transmission estimated savings pursuant to this section of each agreement.

(c) Nothing in this section shall change or supersede the
provisions of the Ralph C. Gibbs Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of the Government Code).

SEC. 3. Section 3.91 is added to the Budget Act of 2009, to read:

See. 3.91. (a) Notwithstanding any other provision of this act, the Director of Finance shall reduce items of appropriation in this act for state operations in the 2009-10 fiscal year, with the exception of those items for the Bureau of State Audits, the Legislature (including the Legislative Counsel Bureau), the judicial branch, and constitutional offices, in the total amounts of $425,000,000 from General Fund items and $315,000,000 from items relating to other funds.

(b) The authority conferred upon the Director of Finance by this section shall not become operative until Executive Order S-13-09 is either rescinded or is amended to impose no more than two furlough days each month on state employees, and shall remain operative only while no more than two furlough days each month are imposed on state employees. Nothing in this section confers any authority upon the Director of Finance to modify or eliminate any other provision of existing law.

(c) Not later than February 15, 2010, the Director of Finance shall report to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees of each house of the Legislature that consider appropriations the amount of reductions made in each item of appropriation pursuant to this section. The report shall include each specific reduction by department, agency, and program; a description of programmatic effects; the number and description of positions affected; and any other description necessary to fully disclose the reduction's impact.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent losses to the General Fund, and to avoid diminished services to the public as well as hardship on state employees as a result of the imposition of a third furlough day each month, it is necessary that this act go into immediate effect.
City of Del Mar Memorandum

TO: Honorable City Council Members

FROM: Mayor Richard Earnest and Council Member Carl Hilliard

DATE: October 18, 2010

SUBJECT: Update on Proposed Purchase of the Fairgrounds

REQUESTED ACTION/RECOMMENDATION:

Receive report.

EXECUTIVE SUMMARY:

Since July 2009, the City Council has been in discussions with the State regarding the possible purchase of the Del Mar Fairgrounds and Racetrack. These discussions and negotiations culminated in the October 6, 2010 release of AB 181 by Senator Christine Kehoe and Assembly Member Lori Saldana. Subsequently, various interested parties have commented on the legislation, some accurately and others inaccurately. This report serves to update the public on the process, and provide responses to many of the questions that have been asked.

If enacted, AB 181 would authorize the sale of the Fairgrounds to the City of Del Mar for $120,000,000 and allow the City to issue revenue bonds to provide partial funding for the purchase. It provides for regional governance, with a non-profit board composed of representatives of local jurisdictions and stakeholders, provides for the continuation of existing Fairgrounds staff, and honors existing labor agreements. This legislation would:

- Preserve a regional asset by keeping the Fairgrounds and Racetrack in the public domain;
- Provide long-term security to preserve thoroughbred racing in California and the California jobs associated with it;
- Encourage private investment that will make Del Mar a world-class Racetrack and secure its future;

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Report on the Proposed Purchase of the Del Mar Fairgrounds
October 18, 2010
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- Ensure the continuation of the San Diego County Fair and other events benefiting the entire region;
- Preserve and enhance the San Dieguito Lagoon and River Valley as a regional environmental asset;
- Return governance of the Fairgrounds to locally appointed representatives representing the entire San Diego region who have relevant experience; and
- Protect local taxpayers by guaranteeing that no tax dollars will be spent on the purchase or operation of the Fairgrounds.

DISCUSSION/ANALYSIS:

Background

In May 2009, Governor Schwarzenegger named the Del Mar Fairgrounds as an asset that the State would consider selling to help balance the State’s budget. The City Council decided to express the City’s interest in the purchase of the Fairgrounds. The City received immediate support for this proposal from Senator Kehoe, and Supervisor Pam Slater-Price, and followed up with a July 27, 2009 Council meeting describing the results of the request, and the response from the Governor. In late August, Mayor Crawford and Council Member Hilliard wrote an opinion-editorial piece carried by the San Diego Union Tribune on why the City must purchase the Fairgrounds. In the course of this very public process, the City has held five publicly-noticed hearings in open session to discuss the possible purchase of the Fairgrounds.

The City Council’s first priority is to keep the property in the public domain and prevent it from becoming privately developed which would take away a resource that is important to the people of San Diego County. It plans to continue the fair and horse racing as long-standing traditions of the region.

The Del Mar Fairgrounds and Racetrack has existed in its current location since the 1930s, occupying approximately 20 percent of the City’s land area. It hosts the San Diego County Fair and annual horse racing meet, as well as 300 additional events per year. The Fairgrounds property is located within the City limits of Del Mar and San Diego.

Purchase Plan

The City has established a strong financial team consisting of Wedbush Morgan Securities, a well-known national securities firm who serves as financial experts on the transaction and Orrick Herrington & Sutcliff LLP who serves as bond counsel. Orrick is
one of the nation’s leading bond counsel firms and it recently served as bond counsel for the statewide $2 billion Prop1a Securitization Program.

The City plans to operate the Fairgrounds through a non-profit Board as an enterprise fund which means that it will be self-sufficient in terms of generating revenues and paying for its expenses, including the debt to acquire the Fairgrounds property. Its operations will not be a part of the City of Del Mar’s General Fund.

The proposed $120 million purchase price will be paid in three parts. Note that the $120 million value was based on the value of the income that the property is generating because it is to remain as a Fairgrounds and Racetrack.

The first part of the purchase price will be financed through the issuance of bonds secured by the Fairgrounds and Racetrack revenues. The proceeds (cash) that will come from these bonds will be used to pay a portion of the purchase price and the State will be able to pay off its outstanding debt on the property.

The second part is cash from a private investment group of horse owners, who have an interest in the continued successful operation of the racetrack and in stemming the decline of horse racing in California, for the right to operate the Racetrack for 55 years.

The third part will come from the new enterprise fund that will make payments to the State over time for the remaining deferred purchase price obligation to the State.

**Benefits to the Region**

When agreeing to place the Fairgrounds up for sale, Governor Schwarzenegger conditioned three requirements on the sale of the property:

1. The property must remain in the public domain;
2. The Annual Fair must continue; and
3. Horseracing must continue.

The City readily agreed to those requirements because they are beneficial to the region and to the City. Regional control removes the Fairgrounds from the State’s budget problems, which are likely to continue, and which could, at some time in the future, result in a sale of this facility with terms much less advantageous to the region including private development. AB 181 also requires annual reporting to the Legislature, and it requires the governing board to follow the Ralph M. Brown Act for open meetings. This provides the public with additional transparency regarding activities of the governing board.
The City is committed to maintaining the existing Fair and Racetrack, and the enterprise will repair and replace aging facilities in lieu of constructing new facilities, such as a 330-room condominium hotel, exhibit hall complex and health club and sports training center as listed in the Del Mar Fairgrounds pending Master Plan. The City plans to operate the facility under its existing Local Coastal Program and Open Space Element continuing to preserve and enhance the environmental aspects of the property.

The investments made by the horse owners leasing the horse racing facilities will help to ensure the continuation of horse racing in San Diego County, and will play a role in the overall solution in preventing the decline of horse racing in the State of California, thus saving critical jobs for Californians.

**Regional Governance**

The Fairgrounds lies completely within the Cities of Del Mar and San Diego; however, its Fair, horse races and many other activities serve the entire County and beyond. AB 181 creates a non-profit corporation with a Board of Directors as a regionally-representative governing structure.

Del Mar has already received strong support from many jurisdictions within San Diego County, and has received formal letters of support from the Cities of San Diego, Vista and Oceanside, and has received commitments of support from other cities in the region. We have also received a letter of support from Supervisor Pam Slater-Price.

**FISCAL IMPACT:**

The Del Mar Fairgrounds and Racetrack will be operated as an enterprise fund, and will not expose the City to any General Fund liability.

**ENVIRONMENTAL IMPACT:**

The change in ownership itself is not a project as defined under the California Environmental Quality Act (CEQA) and is, therefore, exempt from environmental review.
PRIOR CITY COUNCIL REVIEW:

07-13-2009 - Council Meeting – Staff presentation and discussion of costs of providing services to the Fairgrounds, and authorization to send a letter of interest in the purchase of the Fairgrounds to the Governor.

07-27-2009 - Council Meeting – Oral report by Mayor Crawford regarding the letter of interest in purchasing the Fairgrounds sent to the Governor.

09-14-2009 - Council Meeting - Report by Mayor Crawford on the status of the letter intent, including the response from the Governor, and letters of support from Supervisor Pam Slater-Price, and Senator Christine Kehoe.

03-22-2010 - Council Meeting - Publicly noticed closed session

04-19-2010 - Council Meeting - Publicly noticed closed session

06-14-2010 - Council Meeting - Publicly noticed closed session

07-26-2010 - Agenda, Staff Report (on Consent) Authorizing extension of the contract with Orrick Herrington and Sutcliffe LLP for bond counsel services related to the Fairgrounds purchase.

09-13-2010 - Council Meeting - Publicly noticed closed session

09-20-2010 - Council Meeting - Publicly noticed closed session

09-13-2010 - Council Meeting - Publicly noticed closed session

09-20-2010 - Council Meeting - Publicly noticed closed session

10-04-2010 - Council Meeting - Publicly noticed closed session

10-04-2010 - Council Meeting – Staff report for special counsel services related to the Fairgrounds purchase

ATTACHMENTS:

Attachment A – AB 181 (Kehoe)
Attachment B – Correspondence
Daily Racing Form Article
10/18/2010

Pegram offers to aid in purchase of Del Mar grounds
By Steve Andersen

Prominent horse owner Mike Pegram has offered to support the city of Del Mar financially in the municipality's effort to purchase the Del Mar fairgrounds in an exchange for a 55-year lease to operate the Del Mar racetrack on the fairgrounds.

In an interview on Sunday, Pegram said that if the $120 million proposed sale is successful he would like to expand the number of racing days annually from the current seven-week summertime schedule and commit additional revenue toward capital improvements, such as widening the turf course and upgrading the backstretch.

The proposed sale is part of an effort by California Gov. Arnold Schwarzenegger to sell some state-owned properties to reduce the state's budget deficit. Legislation authorizing the sale, sponsored by State Senator Christine Kehoe, whose district includes Del Mar, states that the 400-acre property must be sold to the city of Del Mar for $120 million and that the property must continue to be used for the San Diego county fair, held in late June and early July, and for horse racing.

The legislation has not made it past the state senate rules committee, but could reach a vote later this year, if Schwarzenegger calls a special legislative session, or in early 2011, when the next scheduled legislative session is conducted.

Pegram, who has a home in Del Mar, said he was approached by city officials during the summer and asked to make a $30 million commitment.

"It could come together before the next six months," Pegram said. "All we are are passengers on the bus. This is between the state and the city. The city came to us and said we needed cash.

"It's a 55-year lease. The caveat is the fair would have to remain in its current dates. We would have use of the racetrack for 365 days a year. We would have access to 1,600 stalls for 365 days a year. We would have the opportunity to have additional meets as long as it doesn’t conflict with the fair."

The racetrack is currently operated by the Del Mar Thoroughbred Club, which leases the track from the state's 22nd Agricultural District. Del Mar Thoroughbred Club is currently seeking a long-term lease for the track, which it has run since 1970. The organization's president, Craig Fravel, was not available for comment on Monday.

Under the proposed legislation, the 22nd Agricultural District would be abolished, and agricultural district officials have been quoted in the San Diego press as saying the potential sale price is too low.
Pegram owns the 2009 champion 2-year-old colt, Lookin At Lucky, with Tucson businessmen Karl Watson and Paul Weitman, who he said will also provide funds toward the $30 million commitment. Pegram said he would seek financial support from other horsemen.

Pegram said his desire to operate Del Mar is to provide California racing with stability at a time when Hollywood Park owners have indicated a desire to develop the racetrack property. Hollywood Park has committed to racing through 2011, and in the past has told the racing industry it will provide a six-month notice for intentions to cease racing. If Hollywood Park ceases to operate, Santa Anita is expected to gain additional racing dates.

Pegram, a member of the Thoroughbred Owners of California’s board of directors, said California racing would benefit with year-round training at Del Mar. He is hoping to gain the support of the California Horse Racing Board and California Thoroughbred Trainers.

“This can happen to secure another long-term racetrack for California,” Pegram said. “There are three hurdles. The city has to get the deal together with the state. The second is we have to finish our deal with the city, but the devil is in the details and we haven’t gotten to the details.

“Lastly, the CHRB, the CTT and TOC, and anyone else, will have to think this is a good idea for the industry. I don’t think it’s a good business for all the dates to go to Santa Anita. That’s an industry decision. We need the calendar to work for everybody.”
City of Del Mar Memorandum

TO: Honorable City Council Members

FROM: Mayor Earnest and Councilmember Hilliard

DATE: November 8, 2010

SUBJECT: Discussion of City of Solana Beach Proposal Regarding Fairgrounds

REQUESTED ACTION/RECOMMENDATION:

Discuss Solana Beach proposal for an increased role in governance and ownership of the Fairgrounds.

DISCUSSION/ANALYSIS:

Since July 2009, the City Council has been in discussions with the State regarding the possible purchase of the Del Mar Fairgrounds and Race Track. These discussions and negotiations culminated in the October 6, 2010 release of AB 181 by Senator Christine Kehoe and Assembly Member Lori Saldana. Since the introduction of AB 181, the City has solicited support from jurisdictions and organizations throughout San Diego County. The City of Del Mar has been successful in gaining the support from Mayors of many local cities, individuals and environmental organizations:

- City of Carlsbad
- City of Lemon Grove
- City of San Diego
- City of Vista
- County Supervisor Pam Slater-Price
- Endangered Habitats League
- Sierra Club San Diego Chapter
- City of El Cajon
- City of Oceanside
- City of San Marcos
- City of Encinitas
- San Diego Coastkeeper
- San Diego River Valley Conservancy

The City requested support from the City of Solana Beach as well. The City of Solana Beach indicated that they were going to discuss the issue of whether to support AB 181 at their Council meeting on October 27, 2010. Discussions with Solana Beach City Manager David Ott indicated that Solana Beach was concerned about a series of issues regarding the Fairgrounds, such as noise, traffic management, parking, and reimbursement for sheriff and fire response costs. A special Del Mar City Council Meeting was held on October 25th to discuss the contents of a letter that could be

City Council Action:
provided to the City of Solana Beach that could address these issues. This meeting was attended by David Ott, who reiterated his city's concerns.

Based upon this Council meeting, a letter was drafted to provide to the Solana Beach City Council at their October 27, 2010 meeting. Mayor Earnest and Council Member Hilliard attended this meeting and provided an overview of AB 181 and the purchase proposal, and submitted the letter. Several Solana Beach residents spoke in favor of the proposal. During this meeting, the Solana Beach City Council indicated their desire for additional participation in the governance of the Fairgrounds and Race Track, and requested a follow up meeting with Mayor Earnest and Council Member Hilliard.

Council liaisons Mayor Earnest and Council Member Hilliard met with Solana Beach Council Liaison Mayor Thomas Campbell and Council Member Dave Roberts on October 29, 2010 to receive and discuss their proposal, which included equal representation on a governing board, and equal ownership through a joint powers authority or similar structure.

PRIOR CITY COUNCIL REVIEW:

On October 25, 2010 the Council held a special session to consider a letter to Solana Beach.

Attachment: Letter to Solana Beach
October 27, 2010

Mr. Thomas M. Campbell, Mayor
City of Solana Beach
635 S. Highway 101
Solana Beach, CA 92075

Dear Mayor Campbell:

We believe that the City of Solana Beach will be a substantial beneficiary of the potential sale to Del Mar and its governance by a regional body. Early clear benefits:

Regional Governing Board – The board membership is proposed to consist of 11 members, including members selected by the Cities of Del Mar, San Diego and Solana Beach, as well as two representatives from the County of San Diego, one of which will have an agricultural background and expertise, and one director will be the Executive Director of SANDAG. Solana Beach’s representation on the regional governing board will provide it considerably more input than in the current situation.

Master Plan – The Master Plan proposed by the current Fair board will be revisited to address the issues raised in our various comments and concerns on the 22nd Agricultural District’s draft environmental impact report, including protecting sensitive wetlands, and properly analyzing and addressing air pollution, light pollution, and traffic impacts associated with development in the region.

In addition, the City of Del Mar is committed to working with the City of Solana Beach on these key issues:

Traffic Management – The City of Del Mar will work with the City of Solana Beach to study certain transportation improvements such as a direct access ramp that would provide access to the Fairgrounds in a manner which maximizes benefit to traffic flow and minimizes impacts to the Lagoon and to the environment. We also intend to work with the City of Solana Beach to address how traffic might be more effectively routed during major events to improve traffic flow and to reduce impacts to the surrounding areas.

Sound Issues - Although it is not possible to eliminate all off-site sound impacts, continuance of the Fair and Horse Racing with their agricultural and equine foci will cause a shift away from activities involving motorized sports into more environmentally friendly and low aural impact activities. There are currently no motorcycle racing activities today, and none are being contemplated as future activities.
Public Safety Calls – The City of Solana Beach may at times be a first responder to calls on the Fairgrounds. This may be more burdensome to the City of Solana Beach than a typical mutual aid situation. The City will look at ways in which the City of Solana Beach may get compensated for these services to the extent that they exceed other revenues paid to the City of Solana Beach for municipal services.

Parking Issues – Fairgoers park on Solana Beach and Del Mar city streets to avoid paying for parking at the Fairgrounds. SANDAG and other parking experts have indicated that: (1) there should be limited free parking, and, (2) we need to stimulate the use of mass transit. We will work with the City of Solana Beach to examine solutions to the parking problem that both of our cities face, including limitations on free parking to the extent the Coastal Commission will allow, and to explore other measures to improve mass transit to serve the Fairgrounds.

In conclusion, the City Council of the City of Del Mar believes that regional governance of the Fairgrounds offers substantial benefits to the region and to the City of Solana Beach not enjoyed with the current ownership, and we pledge to work with you on your issues of concern. We would appreciate your support in this endeavor.

Sincerely,

Richard Earnest
Mayor
City of Del Mar
November 12, 2010

2ND DISTRICT AGRICULTURAL ASSOCIATION
State of California

San Dieguito River Park - JPA
14103 Highland Valley Road
Escondido, CA 92025

Dear Chair Richard Earnest and Board Members of the San Dieguito River Park JPA,

I am writing to you today to oppose the request by the City of Del Mar to support their efforts to buy the Del Mar Fairgrounds. Although the 22nd District Agricultural Board supports regional control of the fairgrounds it does not support control by the City of Del Mar. Under the current proposal by Del Mar, their City Council would have the most appointments to the new oversight board resulting in what will not be regional control, but control by Del Mar.

This proposal disenfranchises the 3 million residents of San Diego County who utilize the fairgrounds and eliminates their voice. True regional control should include all the cities in San Diego County including the City of Escondido and Poway. No one city should have more than one appointment to the oversight board.

Additionally the legislation to allow the sale of the Fairgrounds, AB 181, does nothing to guarantee environmental improvements to the property or the San Dieguito Wetlands. The financial model being proposed by the City of Del Mar turns over needed cash flow to a private individual who will be given a lease on the racetrack for 55 years. This horse-owner will pay $30 million to Del Mar for the lease and will recoup his investment within just a few years; stripping the facility of needed revenue for repairs, maintenance, capital and environmental improvements.

The City of Del Mar presented a power point to the Solana Beach City Council on October 27, 2010 requesting support of their efforts to purchase the Fairgrounds. This power point was filled with false information including statements that the Fairgrounds was phasing out horse racing; the 22nd DAA board is not accountable to County residents and many other misleading statements. Please remember that it was the 22nd DAA Board who voted to allow the Coast to Crest Trail to be placed on Fairgrounds property, voted to allow the Coast to Crest trail to be placed on the southern edge of the Horse Park Property and in the past few years has implemented $2 million in environmental improvements to the property. In addition the 22nd DAA Board recently voted to spend an additional $600,000 for environmental improvements in the stable area.
The 22nd DAA has been a good friend to the San Dieguito River Park JPA in many ways including helping to build the Coast to Crest trail in the southern portion of the property. Without true regional control and with a financial model for the sale that leaves the facility cash strapped, the Del Mar Fairgrounds future is threatened. Help us maintain this facility for all the residents of San Diego County by opposing the sale of the Fairgrounds to the City of Del Mar.

On a procedural note, due to Chairman Earnest’s vested interest in the Sale of the Fairgrounds, it would seem prudent that he recues himself from all discussions and voting on this topic.

Thank you for your support and I look forward to future partnerships with the San Dieguito River Park JPA.

Sincerely,

Barry Nussbaum
Board President
22nd District Agricultural Association
Honorable Christine Kehoe  
State Capitol, Room 3086  
Sacramento, CA 95814  

2445 5th Ave., Suite 200  
San Diego, CA 92101  

Dear Senator Kehoe:  

SUBJECT: AB 181 “Purchase of Del Mar Race Track and Fairgrounds”  

At their meeting of November 19, 2010, the Board of Directors of the San Dieguito River Park Joint Powers Authority voted to support the subject bill, which will authorize the City of Del Mar to purchase the Del Mar Race Track and Fairgrounds from the State. The JPA Board believes that the sale will provide for local control that is more responsive to community concerns than ownership by the State and will result in more wetland protection at this sensitive site. The JPA Board supports continued use of the Fairgrounds for the annual County Fair and horse racing activities, as well as other shows and events throughout the year that do not negatively impact the San Dieguito Lagoon.  

Sincerely,  

Dick Bobertz  
Executive Director