

**SAN DIEGUITO RIVER PARK
JOINT POWERS AUTHORITY
Minutes of May 16, 2014**

MEMBERS PRESENT

Dave Roberts - Chair
Don Mosier -Vice Chair
Jim Cunningham
Dave Zito
Dianne Jacob
Sherri Lightner
Mark Kersey
Tom Golich

REPRESENTING

County of San Diego
City of Del Mar
City of Poway
City of Solana Beach
County of San Diego
City of San Diego
City of San Diego
Citizens Advisory Committee

VISITORS/STAFF PRESENT

Wayne Brechtel	JPA Counsel
Dick Bobertz	San Dieguito River Park JPA
Susan Carter	San Dieguito River Park JPA
Shawna Anderson	San Dieguito River Park JPA
Brenda Miller	San Dieguito River Park JPA
Jacqueline Winterer	Friends of San Dieguito River Valley
Bill Michalski	Sierra Club, San Dieguito Lagoon Committee
Phil Pryde	Citizens Advisory Committee
Ed Spaeth	Ramona Trails
John Degenfelder	Ramona Trails
Jeff Barnow	Friends of San Dieguito River Valley
Ann Gardner	Friends of San Dieguito River Valley
Trish Boaz	Executive Director, San Dieguito River Valley Conservancy

Introduction and Announcements

Chair Roberts convened the meeting at 9:36 a.m. in the County Administration Building, 1600 Pacific Highway, Room 302/303, San Diego, CA 92101

Chair Roberts announced that the San Dieguito River Park Joint Powers Authority will be in business for another fifty years because the Extension Agreement has been signed by the City of Del Mar, the County of San Diego and the City of Solana Beach; three of the six member agencies. Poway and Escondido are scheduled to consider it next week.

Approval of Minutes of

Boardmember Golich made a motion to approve the minutes of April 18, 2014, Boardmember Mosier seconded the motion. Six boardmembers voted in favor (Roberts, Mosier, Jacob, Cunningham, Zito, Golich), 0 votes against. Boardmembers Lightner and Kersey abstained.

Executive Director's Report

Executive Director Bobertz reported that the Del Dios area of Escondido was evacuated due to the Cocos fire and the trails in that area were closed, but were to be reopened when the evacuation notice is lifted. This past Tuesday was a very exciting day with the Grand Opening of the Birdwing. Boardmember Golich commented how nice it was that the Birdwing was being reserved by various groups until late July. Executive Director Bobertz also mentioned that the River Park started a Volunteer Mountain Bike Patrol group in June 2013. The organization of this group has provided better and more frequent patrol of the trails. The Mountain Bike Patrol consists of 20 volunteers who were recruited based on their passion for mountain biking and for fostering responsible trail use. At the 2014 California Trails & Greenways conference the San Dieguito River Park Mountain Bike Patrol received a merit award.

Public Comment - John Degenfelder reported that Ramona High School student, Jaron Cappos, won first place at the California High School Mountain Bike State Championships.

DISCUSSION/ACTION

1. City of San Diego Membership Assessment & Ongoing Participation in JPA (page 3)

Chair Roberts opened the discussion to the City representatives first, followed by general Board discussion. Boardmember Kersey stated that he is in support of Mayor Faulconer's decision to add a year of funding for the San Dieguito River Park JPA. Boardmember Kersey went on to say that both he and Mayor Faulconer are big supporters of the park and just need to do due diligence to find the best model to manage the assets. Several regional parks (Mission Trails, Otay Valley and Los Penasquitos Canyon Preserve) are all managed under different models. Boardmember Kersey looks forward to working with Chair Roberts and Mayor Faulconer to determine what direction to take. Boardmember Lightner stated there have been talks at length about how valuable the River Park is to the various jurisdictions. The River Park is very valuable for its Coast to Crest Trail as well as the connection to the Coastal Rail Trail. Mayor Faulconer has said the JPA's budget funding will be in the May revise. Boardmember Lightner has requested information from the Public Utilities Department, and states that there are several additional models for regional park management that the City of San Diego participates in (Mission Bay and the San Diego River Park). She looks forward to hearing back from them soon. It will be included in the Budget process.

a. May 2nd Letter from Mayor Faulconer

Chair Roberts introduced the Mayor's letter, page 4 of packet. He said he would like to briefly discuss each point in the letter, starting with the first point, the Weighted/NonWeighted Vote issue. Chair Roberts explained that the concept is to keep the same number of board members, but to weight their vote instead of adding more board seats. He noted that SANDAG uses a weighted model. He said that one downside would be how the CAC would have a board seat and input since they are not a dues paying member. He said that historically the JPA board has been united in the vote process. On only one occasion, possibly two, was a vote controversial. If the issue is important to the City of San Diego, the JPA board could look at other models but would like to make sure the CAC has a seat on the Board. Boardmember Golich stated that the CAC represents the citizens and every day park users and provides their input. He went on to say that he believes the JPA board likes to hear the CAC perspective. He urged that the JPA retain that representation.

Boardmember Jacob said she does not believe there is a need for weighted vote as there has almost never been a disagreement among the boardmembers. She went on to state that if the City of San Diego gets a weighted vote based on its 31% contribution, wouldn't the County of San Diego also get one since the County contributes the same amount? She noted that in the SANDAG model, that they don't use weighted votes routinely, but only if someone calls for it. CAC has always been represented at the JPA and had a voice at the JPA meetings. Boardmember Jacob recommends looking at the history; that the JPA model has worked over many years. She went on to ask if there has ever been a time that the City of San Diego wanted to exert their authority over the other member agencies; otherwise there is no need for it. Boardmember Kersey suggested perhaps it could be added as an option and could be called for if needed. Chair Roberts said it is a possibility to add this option, to be used if a member wanted to call for it. Chair Roberts said that we have been asked by a couple of park supporters that we record all votes as yes, no, abstain or absent. He would like to add this to the list of suggested improvements. Boardmember Lightner voiced her concern and asked that the vote be listed on any letters that have her name on the letter. Chair Roberts said he wants all of the participating agencies to feel comfortable. Boardmember Mosier stated that the City of Del Mar has upped their contribution average from 4-6% to 8-9 % over the past four years to replace the missing City of San Diego contribution and has helped Poway a couple of years, however it does not change the voting. The JPA model works well and he wants to stick with it. Boardmember Zito stated if you look at the perspective of setting structure and goals, they are the only agency that does not have land in JPA. The City of Solana Beach participates because the Park is important. The issue is then raised, do you have more influence if you contribute more money. The investment goes beyond money. The system works well now and he is not sure what the problem is. He is concerned about the appearance that is being sent back to council of the City of Solana Beach that they are being pushed out or have a smaller vote. Boardmember Jacob continued by commenting that this is a regional effort. The River Park is enjoyed by three plus million people in the area. Solana Beach is contributing and does not have land in the area. She said that it is missing the point to ask are we getting what we pay for (such as is the unincorporated area of the County of San Diego getting what they pay for in regards to what the River Park is contributing to the unincorporated area?) The point is the regional effort and grand vision of the Coast to Crest Trail. The wrong way to look at it is what am I getting for my money? Related to fire fighting efforts; the fire fighting was not always recognized as a regional effort. The cities realized that fire fighting resources need to work together. She feels this is a timely analogy and sees the River Park the same way. Boardmember Cunningham understands the idea of the weighted vote, the way SANDAG has it, with limitations. He cannot see going to Poway city council with a plan for the additional 50 years and explaining weighted vote that may be taken regarding the waiver of back monies owed or going forward to suspend payments. He said it would take Escondido, Poway and Del Mar to equal the City of San Diego's weight. He said it would create a lot of conflict and friction and would tailor and sculpt the votes on topics that are not economic in nature. Boardmember Mosier came back to the CAC participation and thinks it is very important to include a voting member of the CAC.

Boardmember Lightner stated that the City of San Diego has a number of advisory groups that advise the Council on what they are doing. She stated that on a number of agendas the CAC opinion has not been provided to the Board and she would like to see how we could fix that situation. Chair Roberts stated that because the CAC and JPA meets every other month and not every month it has created a scheduling challenge.

Two public comments

Jacqueline Winterer – Friends of San Dieguito River Valley stated that she is concerned that the City of San Diego would get an additional vote, and wouldn't that create a possibility of a tie vote. Chair Roberts said the City of San Diego would not get an additional vote. The discussion is of a weighted vote.

Bill Michalski – San Dieguito Lagoon Committee stated he hopes to not go in the direction of a weighted vote. He said he thinks it poses risks for the other member cities. He said he would prefer a formula where the combined weighted vote of the County of San Diego and the City of San Diego together is not more than 49% and that the CAC have a vote. He expressed his concern of a power shift that may spin out of control on any item in the future.

At 10:10 a.m., Board member Lightner said she had to leave the meeting due to a previous commitment. Chair Roberts said he would like to set up a sub-committee to address all of the concerns raised in the Mayor's letter. The committee proposed would be made up of Boardmembers Kersey, Lightner, Mosier and Roberts. The sub-committee would work on these items and bring back to the full board. Chair Roberts asked Board member Lightner if she would be willing to sit on the Committee. Boardmember Lightner said yes, but this is a decision for the Mayor's office. Chair Roberts said he would be happy to include Mayor Faulconer's office and JPA staff on the committee to work through some of the items in the Mayor's letter. Chair Roberts said if we were making a motion it would be to establish a sub-committee made up of the two San Diego representatives, Chair and Vice- chair to look at all of the issues raised in the letter, including the option of weighted votes; in addition to record all Boardmembers as voting yes, no, abstain or absent in communications regarding those actions. Boardmember Zito asked if forming sub-committees under a weighted vote system would have the potential to violate the Brown Act. Chair Roberts asked Boardmember Kersey what the issue and concern the City of San Diego has regarding a weighted vote. Boardmember Kersey said he has no additional information to share with the Board as he has only been a member for one year and cannot speak to prior years and would suggest continuing the formation of the sub-committee and include Stacey LoMedico from Mayor Faulconer's office, as she is the Mayor's point person on this. He added that City Attorney Tom Zeleny and Halla Razak with the Public Utilities Department should also participate.

Chair Roberts stated that he wanted to go through all of the items brought up in Mayor Faulconer's letter at today's meeting.

Bullet point "Agreement Needs to Include Adequate Language that Does Not Compromise the City's Right to Retain Full Management Authority of it's Land within the Focused Planning Area".

Chair Roberts said we are not aware of any issue on this subject and asked for staff to offer information. Boardmember Kersey said this is an operation issue and does not have more information. Counsel Brechtel said he understands this as the concern of the City of San Diego's ability to have control over what happens on its land, not necessarily the ability to regulate what happens within the City of San Diego jurisdiction on land it does not own. Boardmember Jacob stated that when the sub- committee meets, it would be helpful on each of the items to clearly define the problem, the reasons for the problem and have examples of why this is a problem. Then the board will be able to work on a solution. There is no clear definition of the problems listed in the letter.

Bullet point "City permits must be obtained when events and development occur on City land".

Executive Director Bobertz stated that we currently follow the City procedures for events and development on City land so we need additional information and for the City to define the problem. Chair Roberts added

that if any changes need to be made, we can do it in the revised agreement. Boardmember Jacob commented that if we are making changes for the City of San Diego the changes should include all the member agencies. The County has some issues and concerns that they would like to bring up as well.

Bullet point “An expiration date must be included in the agreement as it is important to reserve the right of future board members and the City to consider and evaluate the cost effectiveness of the JPA”.

Chair Roberts said the revised agreement is 50 years however we could make the date whatever the majority of the board wants. Counsel Brechtel said the amendment he drafted was open ended (which is permissible under the law) so that the agency agreement does not have an expiration date when the agency accepts obligations that go on in perpetuity such as conservation easements, etc. He cautions about having an expiration date. Boardmember Kersey stated that this issue was raised by the City attorney. The City attorney’s office was emphatic about needing an expiration date. Counsel Brechtel said he thought this issue was resolved in the revised agreement and if that is not the case he can certainly revisit the issue. He explained that contributions are voluntary, so there is no obligation for future councils. Chair Roberts said he is hearing that when the Sub-committee meets; besides a representative from the Mayor’s office, a representative from the City Attorney’s office will need to be present also.

Bullet point “Service levels for all maintenance functions associated with Resource management, watershed, and public recreational areas are not defined and there is no enforcement mechanism for failure to provide sufficient services. Based upon a recent site visit by City staff, concerns about the current level of maintenance on publicly accessible trails must be addressed”.

Chair Roberts stated we are not sure what the intent of this is, and continued that if we do not have income then necessarily service levels will decline.

Bullet point” Public positions and outreach on behalf of the JPA must be approved by the Board. Such action compromises the ability of council members to act on items under consideration within their own cities and potentially incorrectly represents opinions of the board”.

Chair Roberts agrees that we should not be putting staff opinions on board stationery. He said one of the changes talked about is having two types of stationary. One for when the Board makes a decision and will have the board members’ names on it. The other is for staff opinions and will be generic stationary without Board member names. It was agreed that the Board-approved position letters and communications would include the specific vote of the Board with their names and how they voted.

Bullet point “All JPA Financial Documents Requested for Review by the Board must be provided as the board holds a fiduciary responsibility to make sound, responsible decisions on behalf of the taxpayers. There has been a reluctance to provide such documents in the past”.

Chair Roberts said we do not know of any document that has been requested that we have not provided. We did lose all our documents in the fire. Every document that has been requested by Boardmembers or their offices has been provided, to our knowledge.

Bullet point “Review and approval of the management structure of the JPA staff must fall under the Purview of the JPA Board”.

Chair Roberts stated that we have the good fortune of an Executive Director who works for free. We have talked about succession planning, which is when the time comes, we will combine the Executive Director and the Deputy Director into one position. However at this time we are getting both positions for the price of “not even one”. The management structure is re-affirmed every year through the budget process, and if any Board member has any issues they should bring them up at that time.

Bullet point “Legal and board review is necessary to evaluate potential conflicts and liability prior to initiation of litigation by the JPA”.

Chair Roberts said he is not sure what this is referring to. Only this board, by its rules, is allowed to approve litigation, so we have always voted on this.

b. Cost Benefit Analysis

Chair Roberts stated that he would like to get the City of San Diego’s cost benefit analysis to compare to the one the JPA staff provided. It looks like the City is getting double the value for the cost.

c. Billing from City of San Diego for Engineering Services for Lake Hodges Bikeway Project

Chair Roberts stated that Boardmember Cunningham and he were in a meeting with the previous Mayor Filner. He said that the Mayor expressed strong reservations about the validity of the bill. Chair Roberts thought this issue had gone away, however if the current Mayor feels this is an issue, we are agreeable to go to mediation to resolve this. To pay the City to build a bridge that we paid for on City property and then to charge us for overseeing the building of the bridge on their property does not seem reasonable.

Boardmember Kersey stated that although this predates my time here, the Mayor probably does not have the authority to throw away a bill and suggested that we pursue the issue further. Chair Roberts stated another problem with the bill is the timeliness. Deputy Director Carter stated that the bill was submitted 9 months after the bridge was completed. We received the bill 2 years after we began the work on the project. We were not aware of these charges and therefore unable to make any changes. We did estimate a cost of \$25,000.00 and deposited that amount of money at the City at the beginning of the project. The project was built with donations and grants and built as a benefit to the citizens of the City of San Diego. The bridge was also ranked in City’s bicycle plan as a top priority project to accomplish. Boardmember Cunningham stated that it is time to address this issue and that he is happy to participate on the mediation. team He went on to say that we may need to carry this amount on the books as a potential obligation. Chair Roberts stated that the issue was discussed during the budget meeting and that our auditor had told us we do not have to carry the item on the books at this point. Boardmember Cunningham says it is a potential unfunded issue that should be addressed. He is happy to help in any way he can. Executive Director Bobertz stated that he, Counsel Brechtel and Deputy Director Carter met with the City Attorney’s office on this issue the previous Wednesday and the City seemed open to going to mediation. Deputy Paul Prather from the City Attorney’s office said he will recommend mediation to the City.

Boardmember Cunningham made the motion that this board authorize counsel and designated members of the board, if necessary, to participate, if agreed upon by the City, mediation to resolve the outstanding issue with the billing that the City has placed upon us as a result of building the bridge. Boardmember Golich seconded.

Unanimously passed with 7 yes votes Boardmembers Jacob, Mosier, Roberts, Golich, Cunningham, Zito and Kersey. There were 0 no votes and 0 abstaining votes. Boardmembers Diaz and Lightner were absent

Boardmember Golich moved that in the future when a letter is sent on a subject that has been voted on by the JPA board we will identify in the letter by last name how the boardmembers voted; his motion also included setting up a sub-committee as proposed by Chair Roberts to review the issues raised in Mayor Faulconer's letter. Boardmember Cunningham seconded the motion.

Unanimously passed with 7 yes votes Boardmembers Jacob, Mosier, Roberts, Golich, Cunningham, Zito and Kersey. There were 0 no votes and 0 abstaining votes. Boardmembers Diaz and Lightner were absent.

Chair Roberts asked that Boardmembers Kersey and Lightner let us know when there is a challenge on their schedules of day or time of the JPA meeting and that the JPA would be willing to change to accommodate their schedules.

2. Budget Committee Report and Recommendation (page 17)

Vice- Chair Mosier reported that the budget approved in March does not include the City bill for the engineering services on the bridge as a liability. The report was delayed due to the issue with the City of San Diego funding. Boardmember Mosier moved to approve the JPA budget as recommended by the budget sub-committee for fiscal year 2014-2015. Boardmember Zito seconded the motion. Boardmember Kersey stated that the City of San Diego council has to ratify the Mayor's budget and this will not happen until June. He also asked how we account for the bridge bill that is not included in the budget. Counsel Brechtel answered that we will need to come back to amend the budget depending on the outcome of the mediation.

Boardmember Cunningham asked if we have put monies in reserves to cover potential payout for vacation, etc. Deputy Director Carter answered that on page 27, reserve funding of \$7,377.00 is set aside for future vacation leave payout. Also in the reserve fund there are items for future truck reserve, at the coast and inland, the reserve for lagoon office construction, and the reserve fund for economic uncertainty has not yet been funded. The total money in the reserve accounts for fiscal year 14/15 is \$122,977.00. Boardmember Cunningham requested which of the accounts are discretionary, and Ms. Carter responded that the reserve for the coastal truck and lagoon office are not discretionary because they are tied to our agreement with SCE.

The FY 14/15 budget and staffing/salary schedule as presented was unanimously passed with 6 yes votes Boardmembers, Mosier, Roberts, Golich, Cunningham, Zito and Kersey. There were 0 no votes and 0 abstaining. Boardmembers Diaz, Lightner and Jacob were absent.

3. Final MND for Via de la Valle Widening and Proposed Letter of Support (page 32)

Boardmember Kersey recused himself and left the room because this is a land issue within the City of San Diego. He said he was advised by the City Attorney to do this and is aware that this is not a JPA policy.

Principal Planner Shawna Anderson began by stating she would like to use the letter (Attachment 1) as an example of the letters we send out. The letter begins on page 34 of the agenda. On page 36 is a paragraph that states in part "the comments in this letter are solely of the JPA staff" and she signed the letter. She does this to meet the response deadline. She is asking for board consideration of the letter on page 44 of the agenda, thanking the City for making the changes to the road widening project. The JPA participated in the project design, so this is a good example of how our participation improved the project design as well as reduced the impacts to the River Park. She went on to report that the final

MND comment letter is in the agenda packet. She specifically pointed out the response to our question of when and how the undergrounding of the utility lines will take place. Please see the response written in the staff report. This project has been before the CAC and they supported staff. Staff is asking for approval to send letter to the City shown as a draft as attachment of the agenda packet. Chair Roberts said that the draft letter doesn't actually say "we support this project". Ms. Anderson explained it has been the JPA's policy to only mention whether a project is consistent or not consistent with River Park goals and objectives. Boardmember Cunningham made the motion to send the May 16th letter to the City of San Diego. Boardmember Golich amended the motion by adding a sentence to the letter of "The JPA looks forward to the completion of this project which would create a more pedestrian and bike friendly road". Boardmember Cunningham accepted the amendment. Boardmember Mosier seconded the amended motion.

Unanimously passed with 5 yes votes Boardmembers, Mosier, Roberts, Golich, Cunningham, and Zito
There were 0 no votes and 1 recuse – Kersey. Boardmembers Diaz, Lightner and Jacob were absent

INFORMATION

4. Park Project Status (oral)

- a. David Kreitzer Lake Hodges Bike/Ped Bridge Lighting and Compliance with Lease Requirements

Deputy Director Carter reported that the lights are hooked up and should be working now. She reminded the Board that an \$8,000 grant from the Rancho Bernardo Foundation had been received to help with funding the project. She explained that the gates are not operable at this time, but are being repaired. On page 45 is a copy of the response letter to the City of San Diego addressing their concerns and stating that the work will be completed by May 31, 2014. Boardmember Kersey commented that he has seen the lights and that they look good.

5. Coordination Reports (oral)

- a. San Dieguito River Valley Conservancy

Trish Boaz – Thanks so much for being at the Birdwing Grand Opening. Events are "sold out" through the end of July. Proceeds are still coming in from the Plein Art event in Escondido. Chair Roberts stated that he has been to two meetings recently, the first being an initial conversation regarding planning of the next phase of the interpretive center at the Birdwing. Chair Roberts also met with Del Mar City Manager regarding a proposed sidewalk (trail) from the Grand Avenue Bridge to Jimmy Durante. The city of Del Mar is trying to raise funds and has asked for a County contribution for the project. Chair Roberts asked if the conservancy could accept grant funding for this project. Ms.Boaz stated that the Conservancy is always happy to accept grant money. Boardmember Golich asked what the plans are for the lot owned by NCTD. Boardmember Mosier stated that the idea is that it would be a parking lot for trail use; however since it is within 100 feet of the buffer zone, the plan is taking more time to design

- b. Friends of the San Dieguito River Valley
No report
- c. Volcan Mountain Preserve Foundation

No report

d. San Dieguito Lagoon Committee

Bill Michalsky said thank you for proposed grant and is happy to work with the Conservancy and others. Their next meeting is this coming Wednesday. He mentioned the proposed parking lot and the trail from the Old Grand Avenue Bridge to Jimmy Durante. He also stated that they are in support of preserving the Boardwalk.

6. Jurisdictional Status Reports

City of San Diego – Boardmember Kersey - No report

City of Solana Beach –Boardmember Zito - Passed agreement amendment unanimously at City Council meeting

City of Poway – Boardmember Cunningham – No report

CAC – Boardmember Golich – He asked that the CAC continue to have representation on the JPA board regardless of whether his is a voting position.

City of Del Mar - Boardmember Mosier – agree with Tom Golich’s comments and thinks he should get to vote also.

County of San Diego - Chair Roberts – Thank you to everyone, spread the word, we are in existence for a minimum of 50 more years and will get these things resolved. Thank you for your participation in the largest park in the County of San Diego.

The next meeting will be June 20, 2014.

Chair Roberts adjourned the meeting at 11:10.

These minutes approved by Board Action

Date

Executive Director