

SAN DIEGO RIVER CONSERVANCY

Minutes of the July 9, 2004 Public Meeting

September 10, 2004

Chairman Murphy called the July 9, 2004 meeting of San Diego River Conservancy to order at 9:00 a.m.

1. **Roll Call**

Members Present:

Dick Murphy, Chairman (Mayor of San Diego)
Donna Frye, Vice-Chairman (City Council of San Diego)
Karen Scarborough (Designated Representative, Secretary of Resources Agency)
Dr. Susan Hector (Public at Large, Appointed by Governor)
John "Jack" H. Minan (Public at Large, Appointed by Governor)
Jim Bartell (Public at Large, Appointed by Governor)
Jim Peugh (Public at Large, Appointed by Senate)

Non-Voting Members Present:

Gary Stephany (Designated Representative, San Diego Regional Water Quality Control Board)
Mike McCann (Alternate Designated Representative, San Diego Regional Water Quality Control Board)
Art Coe (Assistant Executive Officer, San Diego Regional Water Quality Control Board)

Others Present:

Deborah Jayne, Executive Officer
Hayley Peterson, Deputy Attorney General

Absent:

David Harper (Designated Representative, Director of Department of Finance)
Toni Atkins (Public at Large, Appointed by Assembly)
Al Wright (Executive Director, Wildlife Conservation Board)

2. **Approval of Minutes**

Board Member Jim Bartell moved approval of the minutes of the May 21, 2004 public meeting. The motion was seconded by Board Member John Minan and adopted by a voice vote of 5-0 with two abstentions, Board Member Karen Scarborough and Board Member Jim Bartell.

3. **Public Comment**

Any person may address the Governing Board at this time regarding any matter within the Board's authority which is not on the agenda. Submission of information in writing is encouraged. Presentations will be limited to three

minutes for individuals and five minutes for representatives of organizations. Presentation times may be reduced depending on the number of speakers.

Deborah Jones, Executive Director of Lakeside's River Park Conservancy, announced the close of escrow on the second parcel of their CALMAT acquisition.

4. **Chairman's and Governing Board Members' Comments**

These items are for Board discussion only and the Board will take no formal action.

There were no comments.

5. **Executive Officer's Report** (*Deborah Jayne*)

This item is for Board discussion only and the Board will take no formal action.

The following topics may be included on the Executive Officer's Report:

- a) Executive Officer activities and meetings
- b) Governing Board Member stipends
- c) SDRC website

Ms. Jayne highlighted her meeting with Board Member Jim Bartell and Gregory Smith, San Diego County Assessor, Recorder, and Clerk. Mr. Smith has agreed to provide the San Diego River Conservancy with a Geographic Information System (GIS) map and database of the entire Conservancy jurisdiction at no cost.

6. **Deputy Attorney General's Report**

The Board may discuss interest/need for possible training on the Bagley-Keene Open Meeting Act. (*Hayley Peterson*)

A motion supporting a future training presentation by Ms. Peterson was proposed by Vice-Chair Donna Frye and seconded by Board Member Dr. Susan Hector. The motion was adopted by a voice vote of 6-0.

7. **Delegation of Authority to Executive Officer**

The Board will discuss and consider adoption of tentative Resolution 04-06 entitled "Administrative and Operational Responsibilities: Delegation of Authority to Executive Officer". This item will include a discussion of the SDRC's potential role in regulatory issues. (*Deborah Jayne*)

Resolution 04-06 was moved for adoption by Vice-Chair Donna Frye and seconded by Board Member Jim Bartell. Board Member John Minan recommended amending the language of Resolution 04-06 in several areas as shown below. Resolution 04-06 was adopted by a voice vote of 7-0.

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SAN DIEGO RIVER CONSERVANCY

RESOLUTION 04-06

**ADMINISTRATIVE AND OPERATIONAL RESPONSIBILITIES:
DELEGATION OF AUTHORITY TO EXECUTIVE OFFICER**

WHEREAS pursuant to Public Resources Code section 32641, the San Diego River Conservancy may delegate certain authorities and administrative responsibilities to the Executive Officer;

Facilitate Conservancy Operations

WHEREAS, this delegation serves, in part, to provide the Executive Officer the authority to carry out the regular and day-to-day administrative responsibilities needed to conduct / facilitate Conservancy operations;

Clarify Roles of Executive Officer and Governing Board

WHEREAS, this delegation serves, in part, to clarify and document the role of the Executive Officer and the role of the Conservancy Governing Board by (1) providing guidance to the Executive Officer regarding the extent of her authority so that it is well understood what matters should be brought before the Board; and (2) clarifying for the Governing Board the scope of Agency duties and responsibilities which will be carried out by the Executive Officer and staff;

Provide Mechanism for Prompt Action

WHEREAS, this delegation serves, in part, to provide the Conservancy with a mechanism for prompt action by authorizing the Executive Officer to take certain actions and execute certain transactions on behalf of the Conservancy in situations where prompt action is needed, especially in between regularly scheduled Board meetings;

Authorize the Executive Officer to Comment on Non-Regulatory and Regulatory Issues within stated Limitations

WHEREAS, this delegation serves, in part, to grant the Executive Officer authority to comment on relevant non-regulatory and regulatory issues on behalf of the Conservancy and to impose certain limitations on that authority;

Streamline Agency Operations / Preserve Governing Board's Authority

WHEREAS, this delegation also streamlines the operations of the Agency, by generally allowing the Executive Officer to provide a rapid response to all administrative and operational needs which may arise, without further specific Conservancy authorization, while reserving to the Governing Board all determinations on matters of overall Conservancy policy;

NOW, THEREFORE BE IT RESOLVED that pursuant to Public Resources

Code section 32641, the San Diego River Conservancy Governing Board does hereby delegate to the Executive Officer the authority to carry out the regular and day-to-day administrative responsibilities of the Conservancy, without further specific Conservancy authorization, as generally described herein.

The Executive Officer may delegate to other staff any part of her functions, powers, or authority, but such further delegation shall not affect her responsibility to assure that the affairs of the Conservancy are carried out fully and faithfully, in a manner consistent with applicable law, Conservancy policies, and State procedures.

This delegation of authority may be amended or rescinded by further resolution of the Conservancy.

DELEGATED AUTHORITIES

The following general administrative authorities and responsibilities are delegated to the Executive Officer of the San Diego River Conservancy:

1. **Personnel Issues**

Personnel administration is one of the most important duties normally delegated to an agency's Executive Officer. Pursuant to this Resolution, the Executive Officer would be expected to supervise and manage all Agency personnel matters, including such matters as the hiring of staff, promotions and demotions, probation determinations, merit salary adjustments, approving requests for time off, certifying time and attendance sheets, and signing whatever personnel documents are required under State or internal procedures. As appropriate, personnel matters may be further delegated by the Executive Officer to administrative staff. The Executive Officer would also be authorized to employ consultants and contractors where appropriate, subject to any other limitations imposed herein or by law on agency contracting procedures.

2. **Fiscal Affairs**

The general practice in State government is for the governing body of an agency to approve the overall budget which is submitted each year to the Governor through the Department of Finance. It is also customary for the governing body to review major expenditure proposals, and proposals to receive and use outside funds.

Pursuant to this Resolution, the Executive Officer of the San Diego River Conservancy would be expected to prepare the Agency's annual budget and, following Governing Board review and approval, to submit it to the Resources Agency and the Department of Finance; to address budgetary issues raised in the Legislature; to sign fiscal status reports and certify the condition of the Conservancy's finances to the Department of Finance, the State Controller, and other control agencies; and to execute, subject to the Board's overall approval of the receipt and use of funds, all necessary budget revisions, Budget Change Proposals (BCPs), and other

documents necessary in order to obtain authority for the receipt and expenditure of

funds.

Although the receipt and use of funds are normally subject to Board review, for ease and effective operation, the Executive Officer is authorized to apply for funds for Agency support and project work on behalf of the Conservancy.

The numerous fiscal reports which must be prepared in the course of the year, and the other more technical budgetary and fiscal matters, are also customarily handled at staff level.

Finally, the Executive Officer would be expected to exercise responsibility, either directly or by delegating the responsibility to staff where appropriate, to certify for payment all bills and claims for reimbursement; to endorse in the Conservancy's name all checks and warrants received; and to execute all expenditure documents, such as claim schedules, purchase orders, supply orders, requests for funds, authorizations for payment, revolving fund checks, and all other documents necessary for the encumbrance, disbursement, expenditure, receipt, deposit, and transfer of funds, consistent with legal requirements, State procedures, and the Conservancy's resolutions and policies.

3. **Contracts**

The Conservancy's enabling legislation, at Section 32643 provides that "The Conservancy may do both of the following to provide necessary services: (a) Select and hire private consultants or contractors. (b) Enter into memorandums of understanding with state and local public agencies." The operations of the Conservancy will undoubtedly require it to enter into a broad range of contracts and agreements. The Governing Board would normally approve all major contractual commitments to expend funds in connection with the projects, programs, grants, and other activities which are presented for its consideration. The Board would also review and approve all non-monetary contracts or quasi-contractual arrangements which raise questions of overall Conservancy policy.

Pursuant to this Resolution, the Executive Officer would be expected to prepare, process, and sign on behalf of the San Diego River Conservancy, all contracts, Interagency Agreements, grants-in-aid, covenants, memorandums of understanding, escrow instructions, and any other such instruments or arrangements, where necessary to carry out any resolution, plan, policy, or course of action adopted or approved by the Conservancy.

Pursuant to this Resolution, the Executive Officer would also be directly responsible for procuring, executing, and amending contracts or agreements related to the administration of the Agency, such as the procurement of administrative services, business services, staff training, printing materials; the leasing or purchase of equipment; and the leasing of office space, in accordance with State regulations and procedures.

Also, the Executive Officer would have the limited authority to procure and

execute consultant or service contracts in an amount of \$175,000 or less, or contracts with public agencies in an amount of \$200,000 or less, if such contracts or agreements are needed to develop projects or programs for review and approval by the Governing Board. For example, contracts to conduct hydrologic, engineering, or appraisal studies may be needed to develop programs or to assess the feasibility of projects. This authority will be helpful in avoiding delays in developing programs or assessing the feasibility of projects during intervals between Board meetings.

4. **Real Estate Transactions**

Pursuant to Public Resources Code sections 32645-32650, the Conservancy Governing Board is responsible for the approval of the acquisition or conveyance of interest in real property. Consequently, all acquisitions of interests in real property through purchase, donation, or dedication, and all leases of real property in which the Conservancy is lessor (except for the leasing of office space) are subject to Governing Board review and approval. The same would apply to conveyances and leases of interests in Conservancy-owned real property.

Pursuant to this Resolution, the Executive Officer would be expected to sign all real estate transactional documents subject to such Governing Board approval, including agreements, deeds, option agreements, escrow instructions, Certificates of Acceptance, etc. Quitclaim Deeds and boundary agreements which do not raise policy questions may be executed by the Executive Officer without the need for Governing Board review and approval, but only for the purpose of removing clouds on title and not to effectuate any outright conveyance. (Note: boundary settlement agreements would still be subject to the approval of the Director of General Services under Government Code Section 14663.)

5. **Legislation**

Formal positions on, or sponsorship of legislation, in most cases are matters to be brought before the governing body of an agency. However, for ease and effective operation, the Executive Officer is normally given the authority to respond to third-party legislative proposals within the short response times which are common in the legislative process. The Executive Officer shall notify and provide copies to all Board Members of any such responses.

Thus under this Resolution, the Executive Officer would be expected to advise the Governing Board regularly regarding all pending legislation affecting the Conservancy, and would represent the Conservancy's adopted position on such legislation in legislative hearings, enrolled bill reports, and other channels of communication with the Legislature, the Governor's office, other public agencies, and the public.

In all situations where the Conservancy has not yet adopted a position

regarding pending legislation, the Executive Officer would be expected to represent the staff's position, provided that the position is announced as being the position of staff and not the officially adopted position of the Conservancy.

6. **Comments on Non-Regulatory Issues**

Subject to the limits in 5 (*Legislation*), the Executive Officer may, at her discretion, comment (orally or writing) on non-regulatory issues within or related to the jurisdiction and authority of San Diego River Conservancy.

7. **Comments on Regulatory Issues**

Subject to the limits in 5 (*Legislation*), the Executive Officer may, at her discretion, comment (orally or in writing) on regulatory issues of a general or regional nature. The Executive Officer may not exercise this discretion with respect to specific properties located within the jurisdiction and authority of San Diego River Conservancy that are under, or may be under, consideration for acquisition.

8. **Litigation**

The normal practice of State agencies is for staff to defend all lawsuits filed against an agency in coordination with the Attorney General's office. The practice varies with regard to prosecuting suits in which the agency is plaintiff.

Under this Resolution, the Executive Officer would be expected, in coordination with the Attorney General's office, to defend any lawsuits filed against the Conservancy, to verify pleadings, to institute and respond to discovery proceedings, and, in her reasonable judgment, to execute "hold harmless" agreements, releases, etc., without prior Board action (subject to applicable provisions of law and State rules and guidelines). Complaints and suits to be filed in the name of the Conservancy would require Governing Board action, except where necessary to protect or preserve State property in the face of some imminent threat. Claims by or against the Conservancy, except where overall policy questions are brought up, would be handled by the Executive Officer.

9. **CEQA**

Pursuant to the State guidelines for implementation of the California Environmental Quality Act (Public Resources Code section 21000 et seq.), certain types of determinations and non-final actions in the process of reviewing the environmental impact of proposed governmental decisions, may be delegated to agency staffs. (Code of Regulations, title 14, section 15025). Delegation of such preliminary determinations and actions to Conservancy staff will be helpful for the purpose of complying with CEQA requirements in an expeditious manner. The Governing Board retains final authority to review, approve, and certify environmental impact reports and negative declarations, and to adopt official findings in connection with EIRs and negative declarations.

Pursuant to this Resolution, the Executive Officer would be expected to take all

actions under CEQA, other than affirmative, final actions required under CEQA to be taken by the policy-making body of an agency. The Executive Officer's authority, shall include, but shall not necessarily be limited to, determining whether proposed projects fall within allowed exemptions from CEQA; conducting "initial studies" of environmental impact and deciding whether to prepare a draft Environmental Impact Report (EIR) or a Negative Declaration; preparing and filing, or causing to be prepared and filed, all EIRs, negative declarations, and other CEQA documents and notices; and preparing responses to public comments received on environmental documents.

10. **Office Space, Equipment, and Materials**

As a day-to-day administrative matter which is customarily delegated to agency staffs, the Executive Officer will have full authority under this Resolution (subject to applicable State requirements) to arrange and contract for the lease of office space, for the purchase or lease of equipment, and for the purchase of supplies, materials, and publications.

11. **Consent Calendar**

This Resolution authorizes the Executive Officer to place on the Conservancy's "Consent Calendar" matters falling generally within the following parameters, provided that the Conservancy reserves the right to remove any item from the Consent Calendar:

- a. Project amendments, augmentations, changes of grantee for a previously authorized project, or proposed redirections of funds.
- b. Acceptance of funds in amounts \$100,000 or less from another entity.
- c. Subsequent phases of a previously authorized project.
- d. Projects falling within a program or series of actions for which the Conservancy has already granted formal or informal approval.
- e. Items that require a minimum of discretion or judgment, including any items of this nature specified in detail in budget acts and other legislation.
- f. Grants or other items involving the expenditure of no more than \$100,000, and about which no controversy is evident.
- g. Contracts for services in amounts \$200,000 or less.

12. **Previously Authorized Projects**

With respect to projects previously authorized by the Conservancy, to accomplish the purposes of the authorization, and consistent with applicable law, this Resolution authorizes the Executive Officer to:

- a. Substitute grantees.
- b. Redirect incoming or outgoing grants, grant applications and related instruments.
- c. Modify or assign grant agreements and contracts.
- d. Authorize Conservancy grantees to accept from or convey to other appropriate entities on appropriate terms leases, licenses, options, offers to dedicate, and similar instruments and interests, and interests in land such as conservation easements.

13. Administrative Procedures

The Executive Officer, in her discretion, is permitted to establish all necessary internal administrative procedures, consistent with the adopted policies and procedures of the Governing Board, to ensure that the day-to-day affairs of the Conservancy are carried out in a sound and efficient manner.

14. Acting Executive Officer

Pursuant to this Resolution, the Executive Officer shall be able to designate (1) a member of her staff to serve as Acting Executive Officer, and/or (2) members of her staff to perform various of her functions, when she, the Executive Officer, is absent or unable to perform her regular duties. However, if the Executive Officer's absence or inability occurs without her having designated an Acting Executive Officer, the Chairman of the Conservancy would designate an Acting Executive Officer, or designate a number of staff persons to perform various functions.

15. Rulemaking

The Conservancy Governing Board has authority to adopt rules and procedures necessary to conduct its business (Public Resources Code section 32638). Consistent with general practice, all final determinations on adoption of regulations (rulemaking) are reserved to the Governing Board, but the Executive Officer would be expected to prepare, certify, and file all rulemaking documents (i.e., pertaining to the adoption, amendment, or repeal of regulations) pursuant to the actions and resolutions of the Conservancy.

Passed and Adopted by the Board of the
SAN DIEGO RIVER CONSERVANCY

on _____, 2004.

Dick Murphy, Chairperson
San Diego River Conservancy

ATTEST: _____
Hayley Peterson
Deputy Attorney General

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8. **SDRC Budget: Efforts to Reappropriate FY 03/04 Support Budget, Extend Deadline to Encumber \$7.8 million Capital Outlay Funds, and Other Budget Issues**

The Executive Officer will present an overview of the SDRC's current budget situation and ongoing efforts to (1) prevent the loss of its FY 03/04 Support Budget; (2) extend the deadline to encumber \$7.8 million in Capital Outlay funds; and (3) other budget issues. (*Deborah Jayne*)

A motion was proposed to accept the Executive Officer Summary Report by Board Member Jim Bartell and seconded by Board Member John Minan. Board Member Minan recommended that the Executive Officer prepare a letter (for signature by the Chair and Vice-Chair) in support of the San Diego River Conservancy's two budget requests. The motion was adopted by a voice vote of 7-0.

9. **Office Space for San Diego River Conservancy**

The Executive Officer will provide an overview and recommendation regarding SDRC office space. (*Deborah Jayne*)

A motion to accept the Executive Officer Summary Report was proposed by Vice-Chair Donna Frye and seconded by Board Member Jim Peugh. The motion was adopted by voice vote of 7-0.

10. **Need for Administrative Support**

The Executive Officer will provide an update on the hiring freeze, recruitment process, and efforts to upgrade the Executive Secretary classification. (*Deborah Jayne*)

A motion to accept the Executive Officer Summary Report was proposed by Vice-Chair Donna Frye and seconded by Board Member Jim Bartell. The motion was adopted by a voice vote of 7-0.

11. **Length of Future Board Meetings**

The Board will consider increasing the length of future Board Meetings from 2 hours to 3 hours. (*Deborah Jayne*)

A motion that future board meetings be noticed for 2.5 hours between 9:00 a.m. – 11:30 a.m. was proposed by Board Member Karen Scarborough and seconded by Board Member Dr. Susan Hector. The motion was adopted by a voice vote of 7-0.

12. **Status Report on SDRC Policies and Procedures for Land Acquisition and Awarding Grants, Mission Statement, Objectives, Programs, and Priority Ranking Methodology**

The Executive Officer will provide a status report and plans for the development of these documents. (*Deborah Jayne*)

A motion to accept the Executive Officer Summary Report was proposed by Board Member Jim Bartell and seconded by Board Member John Minan. The motion was adopted by a voice vote of 7-0.

13. **City of San Diego's River Park Master Plan**

Mark Marney (Project Officer II, Park Planning Division, Park and Recreation, City of San Diego) and consultant Todd Mead (Civitas, Inc.) will present the City of San Diego's River Park Master Plan. The draft Master Plan is now available for public review and comment. *(Ellen Oppenheim)*

Ellen Oppenheim (Director, Parks and Recreation, City of San Diego) and Mark Johnson (Principal, Civitas, Inc.) and City of San Diego staff presented the draft Master Plan. Following Board Member discussion, a motion to accept the City of San Diego's Draft River Park Master Plan was proposed by Board Member John Minan and seconded by Board Member Jim Bartell. The motion was adopted by a voice vote of 7-0.

A detailed account of all July 9 Board Member comments on the draft Master Plan is documented in Agenda Item 5, Supporting Document 4, "Executive Officer's Comments on the City of San Diego's Draft Master Plan for San Diego River Park" (September 10, 2004 Agenda Briefing Packet).

14. **Potential Land Acquisition and Other Project Opportunities within the City of San Diego**

Mark Marney (Project Officer II, Park Planning Division, Park and Recreation, City of San Diego) and Lane MacKenzie (Supervisor, Acquisition/Relocation Division, Real Estate Assets, City of San Diego) will provide an overview of the highest priority potential land acquisition and other project opportunities within the City of San Diego. *(Ellen Oppenheim)*

Three types of potential projects were identified by the City of San Diego. A motion to accept the Executive Officer Summary Report was proposed by Board Member Jim Peugh and seconded by Board Member Dr. Susan Hector. Board Member John Minan was absent. The motion was adopted by a voice vote of 6-0.

15. **Administrative Matters**

This item is for minor administrative matters only and the Board will take no formal action.

There were no administrative matters.

16. **Executive Session**

Following or any time during the meeting, the Governing Board may recess or adjourn to closed session to consider pending or potential litigation; property negotiations; or personnel-related matters. Authority: Government Code Section 11126(a), (c)(7), or (e).

There was no Executive Session.

17. **Arrangements for Next Meeting and Adjournment**

Friday, September 10, 2004

9:00 am to 11:00 am (possibly 12:00 pm)

Location: San Diego Regional Water Quality Control Board Office

9174 Sky Park Court, Suite 100

San Diego, California

(858) 467-2952

Chairman Murphy adjourned the meeting at 11:30 a.m.

Approved: _____

Mayor Dick Murphy

Chairman, San Diego River Conservancy

DSJ:dsj