To: Ballona Wetlands[landtrust@ballona.org]
From: Walter Lamb
Sent: Wed 2/15/2017 8:33:12 PM
Subject: Approved WAC resolution / other info for tomorrow's meeting
Resolution Recommending Ballona Wetlands Restoration Project Briefing to SMBRC Governing Board Adopted by WAC 02 09 2.pdf

Dear GB members,
Attached is a copy of the resolution that was approved by a vote of Watershed Advisory Council members at our February 9, 2017 meeting. The non-binding resolution recommends that the Governing Board request a briefing at its April meeting on the progress and timeline of the draft Environmental Impact Report for the Ballona Wetlands Restoration Project (milestone 7.1a of the 2013 Bay Restoration Plan update and task 2.2a of the 2017 Annual Work Plan). Such a briefing would be similar to many other briefings that the Governing Board has received on projects in, or not in, the Bay Restoration Plan. There is no mention of this resolution or related vote in the summary document published by staff this morning (link), although the recommendation itself is included on page 3 of the list of unattributed suggestions made by WAC members and non-members in person or on-line.

As an additional clarification to the list of WAC comments, the Land Trust offered to fund additional monitoring, not additional Iceplant removal at this stage. The next regulary scheduled monitoring is for this summer. Conducting more immediate monitoring following the recent rains would be beneficial to establish what species of plants are actually emerging at the project site, which could help inform future restoration efforts. A similar and adjacent 2009 tarping project at Ballona was inadequately monitored, leading to considerable confusion as to the project's results, which were mixed (some native, some invasive). A separate WAC comment (source unknown) asserts that native plants are returning to the site, which would be a welcome outcome, but we have not yet seen any science in support of that assertion, and casual observation suggests many non-native species currently emerging at the site. Thus our offer to fully fund an additional round of monitoring to eliminate replace any confusion or speculation with scientific documentation.

On a separate note, a letter to you from your legal counsel posted to the SMBRC web site last Friday (link) seems to indicate that you will not receive a detailed briefing on litigation against the Commission in closed-session tomorrow. A request for confirmation has not been answered, however the letter states that the Executive Committee will be kept apprised of the litigation but does not indicate that the Governing Board will be kept apprised. Another indicator is that the meeting is scheduled for two hours and there are already two hours and two minutes allocated to other agenda items. It is your decision as a body to determine your level of participation on these matters. The Land Trust, as a stakeholder organization, is sharing the below facts and perspective in the spirit of increased communication, which we believe can lead to better outcomes for all parties.

1) The Executive Committee's functions are outlined in a 2005 resolution from the Governing board, as summarized on pg 3 and 4 of this link. The Governing Board is the decision-making body of the Commission and the purpose of the Executive Committee is to support and advise the Governing Board, not to make decisions (including decisions to take no action) on the Governing Board's behalf.

2) Your legal counsel's letter states that "[y]ou likely recall a previous lawsuit filed by the Trust against the Commission and where the Commission substantially prevailed in that litigation." In sharp contrast, the CA legislature was told that ""the Superior Court found in favor of the Land Trust, awarding attorney's fees and compelling the Commission to disclose certain Foundation documents that the Court declared to be public records, but not all documents requested by the Land Trust." (link to legislative analysis) Rather than debating the relative importance of the first three clauses versus the fourth clause of that legislative analysis, it might be more productive to ask whether the outcome of that prior case is one the Commission is comfortable duplicating in the present case.

3) The letter notes that legal counsel has worked closely on the lawsuit with Foundation employees who serve as senior Commission staff. We understand that many of you have become desensitized over many years to ongoing concerns about the blurred lines between these entities. Suffice to say that the Foundation clearly has independent, and potentially conflicting, interests from the Commission regarding the outcome of the litigation. One of the Land Trust's goals is to help restore previous safeguards that more closely bound the Foundation's interests to those of the Commission in order to eliminate, or at least mitigate, the clear conflict of interest currently in place. We had hoped to achieve this collaboratively.

4) Lastly, please recall that the legal concerns currently at issue were all outlined in a May 18 letter (and brought to the attention of the Commission well before that letter). Since that time, the Governing board has met in June, October and December. If the Governing Board declines to participate as a body again tomorrow, it will be the fourth straight meeting at which the Governing Board remained on the sidelines as a body. That is your decision, but it will be an important fact to keep in mind when this litigation concludes.

Thank you,

Walter

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