

**STATE COASTAL CONSERVANCY
PUBLIC MEETING MINUTES**

Town Hall, 363 N. Main St.

Fort Bragg

September 22, 2011

9:00am

MEMBERS PRESENT

Douglas Bosco (Public Member), Chair
Susan Hansch, (Designated, Coastal Commission)
Bryan Cash (Designated Representative, Natural Resources Agency)
Karen Finn (Designated Representative, Department of Finance)

OVERSIGHT MEMBERS PRESENT

Assembly Member Das Williams
Tom Roth representing Senator Noreen Evans

OTHERS PRESENT

Sam Schuchat, Executive Officer
Elena Eger, Legal Counsel
Joel Jacobs, Deputy Attorney General

1. ROLL CALL

Chair Bosco introduced Mayor of Fort Bragg, Turner who welcomed the Conservancy. Linda Ruffing, City Manager gave an update on Conservancy projects in Fort Bragg.

2. APPROVAL OF July 21, 2011 MINUTES

Moved and seconded. Approved by a vote of 4-0.

3. CONSENT ITEMS

A. ARCATA MARSH

Resolution:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed twenty-five thousand five hundred dollars (\$25,500) to the City of Arcata for the purposes of designing, producing and installing interpretive and directional signage at the Arcata Marsh and Wildlife Sanctuary, in Arcata, Humboldt County. Prior to the disbursement of funds, the City of Arcata shall submit for the written approval of the

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Conservancy's Executive Officer a work program, budget, names of any contractors it intends to employ for the project, and a plan to acknowledge the Conservancy funding."

Findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed project is consistent with the purposes and objectives of Chapter 9 of Division 21 of the Public Resources Code, regarding public access."

B. CALABAZAS CREEK

Resolution:

"The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed one hundred thousand dollars (\$100,000) to the Sonoma County Agricultural Preservation and Open Space District for planning and design of a segment of the Bay Area Ridge Trail located in the Calabazas Creek Open Space Preserve in unincorporated Sonoma County, subject to the condition that no Conservancy funds shall be disbursed until the Executive Officer of the Conservancy has approved in writing a final work plan, including a budget and schedule, and any contractors proposed to be used."

Findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with the purposes and objectives of Chapter 4.5 of Division 21 of the Public Resources Code, regarding the improvement of public access to, within, and around the bay, coast, ridgetops and urban open spaces of the San Francisco Bay area."

C. MARINA BAY SHORLINE TRAIL

Resolution:

"The State Coastal Conservancy hereby modifies its July, 1988 grant authorization of three hundred fifteen thousand dollars (\$315,000) to the City of Richmond for the development of Phase 1 of the Marina Bay Shoreline Trail, by deleting numbered paragraph 3 of that authorization, which required that the City repay to the Conservancy one hundred fifteen thousand dollars (\$115,000) with interest accruing at six and 92/one

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hundredths percent (6.92%) annually over seven (7) years, and replacing it with the following:

1. The City shall repay to the Conservancy one hundred fifteen thousand dollars (\$115,000), with no accrued interest, by December of 2011.”

Findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project remains consistent with the current Project Selection Criteria and Guidelines.
2. The proposed authorization remains consistent with the purposes and objectives of Chapter 9 of Division 21 of the Public Resources Code, regarding a system of public accessways to and along the state’s coastline, including San Francisco Bay.”

D. THE BAY AREA GREENBELT

Resolution:

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed \$50,000 (fifty thousand dollars) to Greenbelt Alliance to assist with the production of the 2012 Edition of *At Risk: The Bay Area Greenbelt* which includes maps of risks to open space in the San Francisco Bay area, as well as an evaluation of the open-space value of these lands and existing policy measures to conserve them. Prior to the commencement of work and the disbursement of funds, Greenbelt Alliance shall submit for the review and written approval of the Executive Officer of the Conservancy a detailed work program, schedule and budget and the names and qualifications of any contractors to be employed in carrying out the project.”

Findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with the purposes and objectives of Chapter 4.5 of Division 21 of the Public Resources Code (Sections 31160-31165), regarding the San Francisco Bay Area Conservancy Program.

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3. Greenbelt Alliance is a nonprofit organization existing under Section 501(c)(3) of the United States Internal Revenue Code, and whose purposes are consistent with Division 21 of the California Public Resources Code.”

E. GREEN VALLEY CREEK

Resolution:

“The State Coastal Conservancy hereby authorizes the disbursement of up to \$150,000 (one hundred fifty-thousand dollars) to the Gold Ridge Resource Conservation District (GRRCD) to 1) conduct a geomorphic assessment, prepare final engineering designs and CEQA analysis, and prepare permit applications to treat aggradation of Green Valley Creek; and 2) prepare final engineering designs, CEQA analysis and permit applications for an off-channel coho habitat enhancement project at Thomas Creek Ranch adjacent to Green Valley Creek, subject to the condition that prior to disbursement of Conservancy funds, the GRRCD shall submit for the review and approval of the Conservancy’s Executive Officer a work program, including a final budget, and the names of all contractors that the GRRCD intends to use to complete the project.”

Findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines, updated by the Conservancy on June 4, 2009.
2. The proposed project is consistent with the purposes and objectives of the San Francisco Bay Area Conservancy Program, Chapter 4.5 of Division 21 of the Public Resources Code, Sections 31160-31165.”

F. JUNIPERO SERRA MUSEUM

Resolution:

“The State Coastal Conservancy hereby authorizes the disbursement of up to one hundred fifty thousand dollars (\$150,000) to the San Diego History Center (“History Center”) to develop an interpretive plan to make the Junipero Serra Museum a focal point for the history of the San Diego River and facilitate public education about the River’s ecological and cultural significance. Prior to the disbursement of any Conservancy funds, the History Center shall submit for the review and written approval of the Conservancy’s Executive Officer a work program, including scope of work, budget and schedule and the names of any contractors it intends to use to carry out the project.”

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Findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with the purposes and objectives of Chapter 7 of Division 21 of the Public Resources Code, regarding Urban Waterfront Restoration.
3. San Diego History Center is a non-profit cultural, educational, and charitable corporation organized under section 501(c)(3) of the IRS code, and whose purposes include environmental education consistent with Division 21 of the Public Resources Code.”

G. MIHOLLIN AND GETCHELL COVER

Resolution:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed forty-five thousand five hundred sixty dollars (\$45,560) to the Redwood Coast Land Conservancy (‘RCLC’) to complete design, planning, and permit applications for public access trails on the Milhollin Parcel and at Getchell Cove west of Highway 1 in Mendocino County subject to the following condition:

Prior to the disbursement of funds for the project, the RCLC shall submit for the review and written approval of the Executive Officer of the Conservancy:

- a. A work program, including schedule and budget, and
- b. The names and qualifications of any contractors to be employed on the project.”

Findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with the purposes and objectives of Chapter 9 of Division 21 of the Public Resources Code, regarding public access to the coast.
3. The Redwood Coast Land Conservancy is a private nonprofit organization, existing under the provisions of Section 501(c)(3) of the U.S. Internal Revenue Service Code and its purposes are consistent with Division 21 of the Public Resources Code.

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4. The project serves greater than local needs.”

H. OJAI VALLEY TRAIL

Resolution:

“The State Coastal Conservancy hereby authorizes the additional disbursement of an amount not to exceed one hundred ninety thousand dollars (\$190,000) to the County of Ventura to replace a culvert crossing with a bridge along the Ojai Valley Trail at the confluence of San Antonio Creek and the Ventura River in Ventura County. This authorization is subject to all of the conditions specified in the Conservancy’s original authorization for this project on March 17, 2011 (Exhibit 1).”

I. MALIBU ACCESSWAY MANAGEMENT

Resolution:

“The State Coastal Conservancy hereby authorizes a grant of twenty-thousand dollars (\$20,000) to the Mountains Recreation and Conservation Authority (MRCA) to manage public beach accessways on easements it holds in the City of Malibu, subject to the condition that prior to the disbursement of any funds, MRCA shall submit for the review and approval of the Executive Officer of the Conservancy a work program and the names and qualifications of any contractors to be employed on the project.”

Findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with the purposes and objectives of Chapter 9 of Division 21 of the Public Resources Code, regarding establishing a system of public coastal accessways.
3. The project serves greater than local needs.”

Moved and seconded. Approved by a vote of 4-0.

4. EXECUTIVE OFFICER REPORT

The Executive Officer thanked Karyn Gear for a wonderful Mendocino Coast tour and to the Mendocino Botanical Gardens for the evening reception. The Executive Officer will be preparing the 2012 meeting schedule to be presented at the November 2011 meeting.

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- A. The Ocean Protection Council met in August in Sacramento and discussed Marine Renewal Energy and the OPC Strategic Plan Draft to be adopted in December after public comment.
- B. Nadine Hitchcock, Deputy Executive Officer gave an update on Climate Change.
- C. Deborah Ruddock of the Conservancy gave a Legislative Report. Sea Otter bill was signed by the Governor; funds go to the Conservancy.(attached to minutes)

NORTH COAST

5. SAN GERONIMO RIDGE

Joel Gerwein of the Coastal Conservancy presented the Staff Recommendation.

Speaking in favor of the Staff Recommendation: James Raives, Marin County Parks gave a Power Point presentation.

Resolution:

“The State Coastal Conservancy hereby authorizes the disbursement of up to four hundred fifty thousand dollars (\$450,000) to the County of Marin (“the County”) for acquisition of approximately 20 acres of forested land in the town of Forest Knolls (Marin County Assessor Parcel No. 169-331-15) for the purposes of protecting plant and wildlife habitat, preserving open space, providing public access, and protecting and enhancing water quality and salmonid habitat. This authorization is subject to the following conditions:

- 1. Prior to the disbursement of Conservancy funds for acquisition, the County shall submit for the review and approval of the Executive Officer of the Conservancy (“the Executive Officer”):
 - a. All relevant acquisition documents, including but not limited to an appraisal, environmental assessments, agreement of purchase and sale, easements, escrow instructions, and documents related to title.
 - b. Evidence that the County has obtained all funds necessary to complete the acquisition.
- 2. The County shall pay no more than fair market value for the property as established in an appraisal approved by the Executive Officer.
- 3. The County shall permanently dedicate the property in a manner acceptable to the Executive Officer for the purposes of protecting plant and wildlife habitat, preserving open space, providing public access, and protecting and enhancing water quality and salmonid habitat.
- 4. The County shall acknowledge Conservancy funding by erecting and maintaining on the property a sign that has been reviewed and approved by the Executive Officer.”

Findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

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1. The proposed project is consistent with the purposes and objectives of Chapter 4.5 of Division 21 of the Public Resources Code, regarding the San Francisco Bay Area Conservancy Program.
2. The proposed project is consistent with the current Project Selection Criteria and Guidelines.”

Moved and seconded. Approved by a vote of 4-0.

SOUTH COAST

6. HUNTINGTON BEACH WETLANDS AND WILDLIFE CARE CENTER

Greg Gauthier of the State Coastal Conservancy presented the Staff Recommendation.

Resolution:

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed \$750,000 (seven hundred fifty thousand dollars) to the Huntington Beach Wetlands Conservancy to construct interpretive exhibits for the Huntington Beach Wetlands and Wildlife Care Center and to prepare the design and permit applications for an access trail and interpretive elements at the Huntington Beach Wetlands Magnolia Marsh in Orange County, subject to the following conditions:

1. Prior to the disbursement of any Conservancy funds, the Huntington Beach Wetlands Conservancy shall submit for the review and approval of the Executive Officer of the Conservancy:
 - a. A work program, including project schedule and budget, and the names of any contractors to be employed on the project; and
 - b. For construction work, evidence that all permits and approvals necessary to implement the work have been obtained.
2. Conservancy funding shall be acknowledged by erecting and maintaining at the project site a sign or signs, the design, placement and duration of which shall be approved by the Executive Officer.
3. The Huntington Beach Wetlands Conservancy shall enter into an agreement consistent with Section 31116(c) of the Public Resources Code, to protect the public’s interest in the constructed improvements at the project site and to provide for maintenance of the project.
4. To the extent appropriate, the Huntington Beach Wetlands Conservancy shall ensure that the final design of the access trail and interpretive elements at the Huntington Beach Wetlands Magnolia Marsh are consistent with the Conservancy’s ‘Standards and Recommendations for Accessway Location and Development’ and all applicable federal and state statutes, regulations and guidelines for disabled access.”

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Findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with the Project Selection Criteria and Guidelines last updated by the Conservancy on June 4, 2009.
2. The proposed authorization is consistent with the purposes and objectives of Chapters 7 and 9 of Division 21 of the Public Resources Code, regarding restoration of urban waterfronts and the establishment of a system of public accessways to and along the California Coast.
3. The proposed project will serve greater than local needs.
4. The Huntington Beach Wetlands Conservancy is a nonprofit organization existing under Section 501(c)(3) of the United States Internal Revenue Code, whose purposes are consistent with Division 21 of the California Public Resources Code.”

Moved and seconded. Approved by a vote of 4-0.

7. DRISCOLL’S WHARF

Deborah Ruddock of the Coastal Conservancy presented the Staff Recommendation.

Speaking in favor of the Staff Recommendation: Kelly Falk, Port of San Diego, Peter Halmay, President, San Diego Fisherman’s Working Group, Cathy Driscoll, Driscoll Wharf’s Leaseholder

Resolution:

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed two hundred eighty-five thousand five hundred dollars (\$285,500) to the San Diego Unified Port District (Port) for initial projects at Driscoll’s Wharf to implement the San Diego Commercial Fisheries Revitalization and Coastal Access Plan, including renovation of an unloading facility renovation, purchase of an ice machine and live seafood holding tank, installation of interpretive signage, and planning for a fisherman’s market, subject to the following conditions:

1. The work shall not commence and no funds shall be disbursed until the Executive Officer of the Conservancy has approved in writing:
 - a. A work program, including budget and schedule.
 - b. Any contractor that the Port intends to retain to undertake project work.”

Findings:

“Based on the accompanying staff report and attached exhibits, the Coastal Conservancy hereby finds that:

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1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with the purposes and objectives of Chapter 7 of Division 21 of the Public Resources Code, regarding urban waterfront restoration.

Moved and seconded. Approved by a vote of 4-0.

8. LOS CERRITOS WETLANDS COMPLEX

Joan Cardellino of the Coastal Conservancy presented the Staff Recommendation.

Resolution:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed two hundred twenty-five thousand dollars (\$225,000) to the Los Cerritos Wetlands Authority (“LCWA”) to prepare a conceptual restoration plan for the Los Cerritos wetlands complex in Long Beach and Seal Beach, California, subject to the condition that, prior to the disbursement of funds, the LCWA shall submit for the review and approval of the Executive Officer of the Conservancy a work plan (including a schedule and detailed budget) and the names and qualifications of any contractors to be employed to prepare the plan.”

Findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the Conservancy’s current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with the purposes and objectives of Sections 31111 and 31220 (Chapter 5.5 of Division 21) of the Public Resources Code, regarding integrated coastal and marine resource protection.”

Moved and seconded. Approved by a vote of 4-0.

9. WAVECREST PROPERTY

Janet Diehl of the Coastal Conservancy presented the Staff Recommendation.

Speaking in favor of the Staff Recommendation: Walter Moore, Peninsula Open Space Trust, Jo Chamberlain, Coastside Land Trust.

Resolution:

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed two million five hundred thousand dollars (\$2,500,000) to the Coastside Land Trust (“CLT”)

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for the purpose of acquiring the Wavecrest Property (San Mateo County Assessor Parcel Number 065-011-010), consisting of approximately 50 acres, for habitat protection, open space protection and public access. The Conservancy further authorizes disbursement of an amount not to exceed one hundred fifty thousand dollars (\$150,000) to CLT to plan and design the California Coastal Trail through the Wavecrest property and to produce a conceptual design for the Coastal Trail on the properties to the south of Wavecrest to Redondo Beach Road. These authorizations are subject to the following conditions:

1. Prior to the disbursement of Conservancy funds for acquisition, CLT shall submit for the review and approval of the Executive Officer of the Conservancy (“the Executive Officer”):
 - a. All relevant acquisition documents, including, without limitation, the appraisal, purchase agreement, escrow instructions, environmental assessment, and title report.
 - b. Evidence that sufficient funds are available to complete the acquisition.
2. CLT shall pay no more than fair market value for the property, as approved by the Conservancy, based on an appraisal of the property.
3. CLT shall permanently dedicate the property for habitat preservation, open space protection and public access through an irrevocable offer to dedicate the property or other instrument approved by the Executive Officer.
4. Conservancy funding shall be acknowledged by erecting and maintaining a sign on the property or in a nearby public staging area, the design and location of which to be approved by the Executive Officer.
5. Prior to disbursement of funds for the conceptual design of the Coastal Trail, CLT shall submit for Executive Officer review and approval a work plan, schedule and budget, and the names and qualifications of any subcontractors.
6. CLT shall incorporate the guidelines of the Conservancy’s ‘Standards and Recommendations for Accessway Location and Development’ into the planning and design criteria for the Coastal Trail segment on the property.”

Findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with the purposes and objectives of Chapter 9 of Division 21(Sections 31400-31410) of the Public Resources Code, regarding the establishment of a system of public accessways to and along the California Coast.

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3. The Coastside Land Trust is a nonprofit organization that qualifies under section 501(c)(3) of the United States Internal Revenue Service Code, and whose purposes are consistent with Division 21 of the Public Resources Code.”

Moved and seconded. Approved by a vote of 4-0.

SAN FRANCISCO BAY AREA

10. STENZEL PROPERTY- Agenda item was removed from the agenda at the meeting

11. INVASIVE SPARTINA PROJECT

Marilyn Latta of the Coastal Conservancy presented the Staff Recommendation.

Resolution:

“The State Coastal Conservancy hereby authorizes the following:

1. Disbursement of up to \$650,000 (six hundred fifty thousand dollars) for two years of planning and implementation of revegetation projects to increase native vegetation as part of the ongoing invasive and hybrid *Spartina* treatment and eradication projects under the Invasive *Spartina* Project (ISP) Control Program. These grant funds may be used for seedling propagation, on-the-ground planting of native seedlings, and revegetation monitoring and maintenance and may augment existing grants to the California Wildlife Foundation and the Friends of Corte Madera Creek Watershed or may be disbursed to a new grantee, Save San Francisco Bay Association. This authorization is subject to the following conditions:
 - a. Prior to implementing any revegetation projects and prior to disbursement of any funds to the grantee, the grantee shall submit for review and approval of the Executive Officer a plan detailing the site-specific revegetation work, including a schedule and budget, and evidence that the grantee has obtained all necessary permits and approvals for the project.
 - b. In carrying out any revegetation project, the grantee shall comply with all applicable mitigation and monitoring measures that are set forth in the approved Invasive *Spartina* Project Revegetation and Monitoring Plan, that are required by any permit, any Biological Opinion or approval for the project, and that are identified in the “Final Programmatic Environmental Impact Statement/Environmental Impact Report, San Francisco Estuary Invasive *Spartina* Project: *Spartina* Control Program” (FEIS/R), adopted by the Conservancy on September 25, 2003.
2. Disbursement of up to \$350,000 (three hundred fifty thousand dollars) that will be reimbursed by the Wildlife Conservation Board (WCB) to contract for environmental services to plan for future restoration and revegetation work and identify opportunities for and develop future projects to create marsh elevations for high tide flood refugia habitat

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or floating islands at appropriate ISP Control Program treatment sites and to prepare environmental or other documentation that may be required for any permits or approvals for such future projects and that may be required under CEQA or NEPA. Prior to disbursement of any WCB funds, the Executive Officer shall enter into a Memorandum of Understanding with the WCB, permitting the Invasive *Spartina* Project (ISP) Control Program work under this authorization as an approved phase of project work under WCB Agreement No. WC-3032BT, describing the budget and work to be performed, and providing for reimbursement of the Conservancy's expenditures for the work."

Findings:

"Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. Disbursement of additional funds for the implementation of program revegetation project, and for technical planning for future habitat restoration projects under the ISP Control Program, remains consistent with Public Resources Code Sections 31160-31165 and with the resolutions, findings and discussion accompanying the Conservancy authorizations of September 25, 2003, June 16, 2005, May 24, 2007, April 24, 2008, April 2, 2009, June 4, 2009, and March 17, 2011 as detailed in the staff recommendations attached as Exhibit 1 to the accompanying staff recommendation.
2. The proposed authorization remains consistent with the current Project Selection Criteria and Guidelines, as detailed in Exhibit 1 to the accompanying staff recommendation. .
3. The California Wildlife Foundation, Friends of Corte Madera Creek Watershed, and Save San Francisco Bay Association are nonprofit organizations existing under Section 501(c)(3) of the United States Internal Revenue Code, whose purposes are consistent with Division 21 of the California Public Resources Code."

Moved and seconded. Approved by a vote of 4-0.

12. PRESIDIO COASTAL RIDGE TRAIL

Matt Gerhart of the Coastal Conservancy presented the Staff Recommendation.

Speaking in favor of the Staff Recommendation: Kate Bickert, Golden Gate National Parks Conservancy.

Resolution:

"The State Coastal Conservancy (Conservancy) hereby authorizes disbursement of an amount not to exceed sixty hundred fifty thousand dollars (\$650,000) to the Golden Gate National Parks Conservancy (GGNPC) to construct segments of the California Coastal Trail and San Francisco Bay Area Ridge Trail in the Presidio of San Francisco.

Prior to the disbursement of Conservancy funds for construction, GGNPC shall submit for the review and approval of the Executive Officer of the Conservancy:

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1. Evidence that the GGNPC has obtained all necessary permits and approvals.
2. A signing plan for the project acknowledging Conservancy participation and identifying the trail segments as part of the California Coastal Trail and Bay Area Ridge Trail systems, as applicable.
3. A final work plan (including the names of any contractors to be used in the completion of the project), and a project schedule and budget.
4. Evidence that sufficient funds are available to complete the project.
Also prior to the disbursement of funds, the GGNPC, landowners, and the Conservancy shall enter into an agreement or agreements sufficient to protect the public interest in the project and to provide public access to the project site.”

Findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with the purposes and objectives of Chapter 4.5 of Division 21 of the Public Resources Code, regarding the resource and recreation goals of the San Francisco Bay Area.
3. The GGNPC is a nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, and whose purposes are consistent with Division 21 of the Public Resources Code.”

Moved and seconded. Approved by a vote of 4-0.

13. HOOD MOUNTAIN TO HIGHWAY 12

Matt Gerhart of the Coastal Conservancy presented the Staff Recommendation.

Speaking in favor of the Staff Recommendation: Elizabeth Tyree, Sonoma County Regional Parks

Resolution:

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed one hundred fifty two thousand dollars (\$152,000) to Sonoma County for construction of a 0.3 mile segment of the Bay Area Ridge Trail, including improvements to facilitate a safe and accessible crossing of Highway 12, in Sonoma County. This authorization is subject to the condition that prior to the disbursement of funds, Sonoma County shall submit for the review and approval of the Executive Officer of the Conservancy a detailed work program,

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budget, schedule, a signage plan for the project acknowledging Conservancy participation, and the names and qualifications of any contractors that it intends to employ.”

Findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with the purposes and objectives of Chapter 4.5 of Division 21 of the Public Resources Code, regarding the improvement of public access to, within, and around the bay, coast, ridgetops and urban open spaces of the San Francisco Bay area.”

Moved and seconded. Approved by a vote of 4-0.

14. BENICIA URBAN WATERFRONT RESTORATION PLAN

Amy Hutzler of the Coastal Conservancy presented the staff recommendation.

Resolution:

“The State Coastal Conservancy hereby authorizes disbursement of an amount not to exceed \$140,000 (one hundred forty thousand dollars) to the City of Benicia (“the City”) toward preparation of an urban waterfront restoration plan for approximately 15 acres at the foot of First Street, along with completion of environmental review for the plan subject to the condition that prior to disbursement of any Conservancy funds, the City shall submit for review and approval by the Executive Officer of the Conservancy (“the Executive Officer”):

1. A work program, budget and schedule for the project and
2. All contractors that the City intends to retain in connection with the project.”

Findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed project is consistent with the current Project Selection Criteria and Guidelines.
2. The proposed authorization is consistent with the purposes and objectives of Chapter 4.5 of Division 21 of the Public Resources Code regarding the San Francisco Bay Area Conservancy Program.”

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Moved and seconded. Approved by a vote of 4-0.

The chair announced a break in the meeting. Staff Counsel Elena Eger left the meeting.

Meeting resumed with Joel Jacobs, Deputy Attorney General, assuming the role of Counsel for the Conservancy for the proceedings under Agenda Item 15.

15. TRANSFER OF ACCESS EASEMENT, CITY OF MALIBU

Jack Judkins, Conservancy Senior Staff Counsel, and Joan Cardellino, Conservancy South Coast Program Manager, presented oral testimony and documentary evidence on this public hearing item to the Conservancy on behalf of Conservancy staff. In addition to the Exhibits previously supplied with the staff recommendation, Mr. Judkins submitted Exhibits 18 and 19 (copies attached to the minutes) to the Conservancy for inclusion in the record. Mr. Judkins also provided to the Conservancy a letter (copy attached to the minutes) addressed to the Conservancy from Diane Abbitt, the attorney for Lisette Ackerberg and the Ackerberg Trust, the owner of the property on which the subject access easement is located. By that letter, which had been provided to staff by fax on September 21, 2011, Ms. Abbitt requested a continuance of this item. The Conservancy elected not to consider the request for a continuance.

Linda Locklin, Coastal Access Program Manager, California Coastal Commission, and Lisa Haage, Chief of Enforcement, California Coastal Commission, presented oral testimony on this public hearing item to the Conservancy on behalf of the Coastal Commission.

Prior to deliberation and discussion on this matter, at the suggestion of Deputy Attorney General Joel Jacobs, the Conservancy went into a closed session to confer with its counsel regarding pending litigation *Ackerberg v. California Coastal Commission*, Los Angeles Superior Court Case No. BS122006, and related litigation.

Upon a return to open session, the Conservancy considered and adopted the following resolution and findings by motion and second and based on a roll call vote of 4-0, with the Conservancy members voting as follows: Hansch-Aye; Cash-Aye; Bosco-Aye; Finn-Aye.

Resolution:

“The State Coastal Conservancy hereby directs its Executive Officer to take all necessary steps to vest in the State of California (acting by and through the Conservancy), or alternatively or subsequently, in another qualified entity designated by the Executive Officer and acceptable to the Executive Director of the California Coastal Commission, the public access easement (the ‘Easement’) created by recordation of a Certificate of Acceptance (the ‘Acceptance’) recorded on December 17, 2003, as Instrument No. 03-3801416 in the official records of Los Angeles County” and held by Access for All (‘AFA’).”

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Findings:

“Based on the accompanying staff report and attached exhibits and on such other evidence that has been presented at the public hearing, the State Coastal Conservancy hereby finds that:

1. AFA has failed to carry out its responsibilities to manage the vertical public access easement (the Easement) created by the Acceptance in a manner consistent with the Acceptance and with the agreed-upon management plan for the Easement.
2. Specifically, AFA entered into a settlement (attached to the accompanying staff recommendation as Exhibit 4) of *Access for All v. Lisette Ackerberg Trust, et al.*, Los Angeles Superior Court No. BC405058, with the owner (“Ackerberg”) of the property on which the Easement is located and permitted entry of a judgment (attached to the accompanying staff recommendation as Exhibit 5) based on that settlement which impair and adversely affect the public interest in the Easement by:
 - a. Allowing significant delay in any development and opening of the Easement, without any assurance that encroachments to the Easement will ever be removed and without any other tangible benefit to the public access to be provided by the Easement.
 - b. Failing to allow the Conservancy (and the California Coastal Commission, the “Commission”) involvement in the design of the accessway or in decisions potentially affecting the viability of the Easement.
 - c. Creating the factual circumstances that may lead to a joint application to the Commission for the extinguishment of the Easement and that will allow Ackerberg to argue that the Easement should be extinguished.”

16. CONSERVANCY MEMBER COMMENTS

Board member Susan Hansch announced a special event to honor Peter Douglas of the California Coastal Commission at the Aquarium by the Bay, September 30 from 7 to 10 pm and extended an invitation to Conservancy staff.

17. PUBLIC COMMENT ON NON-AGENDA ITEMS

There was no public comment.

18. CLOSED SESSION

None (other than in connection with Agenda Item 15 – see above).

19. ADJOURNMENT

Meeting was adjourned at 1:10 pm