

State of California
The Resources Agency
Department of Fish and Game
WILDLIFE CONSERVATION BOARD

Minutes, Meeting of August 4, 1977

Pursuant to the call of the Chairman, the Wildlife Conservation Board met in Room 6024 of the State Capitol Building, Sacramento California, on August 4, 1977. The meeting was called to order by Acting Chairman E. C. Fullerton at 10:15 a.m.

1. Roll Call

<u>PRESENT:</u>	E. C. Fullerton	Member
	Sid McCausland	Member
	Assemblyman Dan Boatwright	Joint Interim Committee
	Assemblyman Tom Suitt	" " "
<u>ABSENT:</u>	Berger Benson	Chairman
	Senator Dennis Carpenter	Joint Interim Committee
	Senator John Dunlap	" " "
	Senator John Nejedly	" " "
	Assemblyman Barry Keene	" " "

STAFF

Chester M. Hart	Executive Officer
Alvin G. Rutsch	Assistant Executive Officer
John Schmidt	Land Agent
Alma Koyasako	Secretary
Bella Applebaum	Accountant

OTHERS PRESENT:

Henry Glasser	Lawler Ranch
Bob Bounds	City of Suisun City
Betty Lawler Ashley	Property owner
Raymond E. Lewis	Suisun Resource Conservation Dist.
Bill Leonard	Hofmann Company
K. Hofmann	Hofmann Company
Francis C. Lindsay	Suisun Resource Cons. Dist.
Joe Sheehan	Dept. of Fish and Game
Sandi McCubbin	Office of Senator Dunlap
William L. Smith	Solano Ranch Co.

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The Executive Officer, Chester M. Hart, explained that this special meeting has been called to further consider possible purchase of lands in Suisun Marsh. He explained that Chairman Berger Benson was not able to attend and, therefore, election of an Acting Chairman for this meeting will be necessary.

IT WAS REGULARLY MOVED AND SECONDED THAT MR. E. C. FULLERTON
SERVE AS ACTING CHAIRMAN OF THE WILDLIFE CONSERVATION BOARD FOR
THIS MEETING.

PASSED UNANIMOUSLY.

2. Suisun Marsh - Hill Slough Expansion, Solano County

Mr. Hart explained that the WCB at its June 21 meeting heard public testimony on the proposed acquisition of the property but delayed final action at the request of Assemblyman Dan Boatwright until such time as Assemblyman Fazio, author of AB 1717, has had an opportunity to meet further with Suisun City. Approximately six weeks have elapsed to allow for such a meeting. Recently, the staff received from Mr. Henry Glasser, attorney for the landowner of the property, a letter urging the Board to make some further determination regarding acquisition of property as soon as possible. He mentioned also that communication was received from a Mr. K. H. Hofmann, objecting to the purchase. It was his understanding that a meeting was held yesterday, August 3, with Assemblyman Fazio and the City of Suisun. Nothing specific about the outcome has been communicated to staff.

Mr. Hart indicated that if the Board would decide at this time to take further action towards acquisition, it would be necessary for the Board to allocate funds therefor from the reserve established at the last meeting. If the Board desires to take additional testimony on the matter at this time, Mr. Hart believed that would also be appropriate.

Mr. Fullerton expressed the desire to hear from both Mr. Glasser and Mr. Hofmann, specifically regarding their concerns, before the Board take action on the proposed acquisition.

Mr. K. H. Hofmann, home builder/developer, introduced Mr. Bill Leonard of his staff and Mr. Ray Lewis, a Board member of the Suisun Resource Conservation District. Being a duck hunter, Mr. Hofmann stated he was generally in accord with AB 1717, with some exceptions, because he felt there was a need for this legislation. However, as a taxpayer, he believed the acquisition was a complete waste of money, and as a builder and with a practical knowledge of the values of land, he wanted to testify that the lands proposed would not be appropriate for habitat purposes. He pointed out the areas which, in his estimation, were more important for habitat purposes.

Mr. Fullerton questioned whether the lands suggested for acquisition by Mr. Hofmann at Bradmoor Island were developable and thereby threatened at this time, and Mr. Hofmann responded that by stretching the argument it could be.

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A point that Mr. Bill Leonard brought up related to the fact that there are other methods to control development of lands and cited the objection the Department of Fish and Game has made to his company's project on McCoy and Laurel Creeks. This objection, Mr. Fullerton clarified, was based on the effect of the drain water when it spills into the marsh. Mr. McCausland believed that this issue relates to one of the key arguments raised at the previous meeting that the Lawler property was needed as a buffer for the marsh because of the drainage activities on the Lawler Ranch. If the ranch were to be developed to its full potential, there would be a substantial intrusion of drain waters into the marsh.

Assemblyman Boatwright commented that when the legislature passed the Coastal Act which, in effect, froze properties and their development, the question was raised numerous times as to what should be done to compensate the land owners for diminution of the value of their property as a result of the passage of the Act. None of those property owners were compensated for diminution of property values. Assuming that AB 1717 passes in its present form, the property would be in the same position as those on the coast. Why are we then, he questioned, considering paying \$2,900,000 for this property?

Mr. Fullerton thought that was a good question and one on which he would definitely like a legal opinion, because he did not want either the property owner or the State subject to criticism or to be hurt. The legal question he would like to pose is: If AB 1717 passes in its present form and the State has not purchased the property, then is the fair market value lower between the time the act is passed and the time of signing the bill?

Assemblyman Boatwright agreed that this legal opinion was essential, but indicated that there has been precedent set on this very question because in the past it was done. He believed it was premature for the Board to be considering the acquisition at this meeting. Mr. Fullerton advised that the meeting was being held at the request of the attorney for the landowner, Mr. Henry Glasser.

Mr. Glasser advised that although this was not the point he would raise, this is a critically important point for them. He stated some time has elapsed since the last meeting and believed they were entitled to some kind of answer, in terms of what is going to happen to their property. He stressed that the appraisal which places the value at \$2.9 million is not overstated and that that land will appreciate in the future, particularly for Solano County and Suisun City. However, that value would not be realized if the State should pass the act and thereby take away from the \$2.9 million and reduce its value to something like \$200,000. He was certain an appraiser considering AB 1717 would come up with a value between \$200,000 and \$300,000. He believed that the BCDC plan for Suisun

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Marsh developed a year or two ago found there is some critical public use for the lands in question and that this is the reason the Board desires to proceed with the purchase. BCDC clearly had this in mind when it determined that the value to the public using the land would be well in excess of \$2 million. It was his offhand legal opinion that the State would find itself in serious trouble if it were to defer action until passage of the legislation at which time appraisal of the property could be dropped to \$200,000 or \$300,000 and purchase by the State proceed at that time. He thought the Board has a very serious problem if this is their thinking and that the justice of that kind of thing should also bother them. Assemblyman Boatwright declared that he is Chairman of the Assembly Ways and Means Committee and that his responsibility is to all the taxpayers of the state, and that he must look to saving every penny he can to protect the taxpayers.

Another point brought up by Assemblyman Boatwright was that the State could purchase only developmental rights and leave the owners the fee simple.

Mr. Bill Smith, rancher in the Potrero Hills district of Solano County in what is known as the secondary management zone, testified that he and his neighbors had supported the objectives of saving Suisun Marsh from inception of the original legislation. The one point he would make is that those property owners in the secondary management zone should be compensated for providing a buffer for the private properties within Suisun Marsh. He further commented on his understanding of the original appropriations for Suisun Marsh acquisitions. He also pointed out that the situation at Suisun Marsh is unlike the coastal zone because the marsh is 75% privately owned.

Mr. Ray Lewis, an interested duck hunter, opposed purchase of the property. His objection was the price, which he believed to be excessive. He stated also that the Department of Fish and Game already has land in the area which cannot be developed because of lack of funds. The lands to be purchased are marginal for duck hunting and that much would need to be done to turn the area into a marsh. Mr. Fullerton explained that the area proposed for acquisition will not be developed for duck hunting with ponds, etc., -- it will be developed for all types of wildlife. The intent of the bill and the source of the funds indicate to him that the Department must protect all forms of wildlife in Suisun Marsh. It was his concern that were he to interpret the bill for preservation of Suisun Marsh as only for hunters, he would not be following the intent of the bill.

Mr. Bob Bounds from the City of Suisun stated that Assemblyman Vic Fazio met with them yesterday and it was his feeling that the Assemblyman was placing a great deal of strength on the plan developed by the Department of Fish and Game which includes construction of roads, levees, plantings, etc., and that the program for Suisun Marsh as proposed by the Department

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will go on. Mr. Bounds questioned where the development funds would come from. Mr. Fullerton was of the opinion that if the State is going to take the responsibility to manage the land, then it will also take the responsibility to make sure it will be developed in the proper manner.

Assemblyman Boatwright asked if there might be a possibility that the portion along the road could be developed and that some of the lower portion would be provided by the developer as a buffer zone or open space and then the State could acquire some of the back portion for wildlife habitat, bird watching, etc.

Mr. Fullerton stated it was his personal feeling that he would not want to vote on this issue until he has an attorney general's opinion advising us what position we are putting the landowner in between the time the bill passes and the time that it actually becomes law in regard to the value of his property and also what position it would place the State in.

Assemblyman Boatwright clarified that the Board has certain time constraints if the attorney general says that we must act before the bill actually passes the legislature and signed by the Governor, but if the attorney general says we do not have to act until the bill finally becomes law, which will be January of next year, that gives the Board more time to act fairly toward the property owner. He also reported that the bill will go before the Senate Natural Resources and Wildlife Committee which is chaired by Senator John Nejedly who had requested that no action be taken on this matter today.

Mr. Glasser suggested that, if, as Mr. Fullerton states, he wants to protect the land owner, the property be purchased at this time. Otherwise, you're really condemning our property. The property owner is in an economic, real, factual jeopardy, for if the bill passes in its present form, 98% of the value is gone overnight. He advised that if the bill does not include the subject property, the landowner would not sell to the State, since the highest and best use in his judgment is for development.

Assemblyman Boatwright assured Mr. Glasser that there was no need to act today since the bill has another house to go through. If there are amendments, it will have to go back to the Assembly for concurrence and that takes off all deadlines, and it would be well into September before the bill is passed by the legislature.

Mr. Fullerton's concern was whether or not the State would be under any legal constraints to reduce the value of the property if the bill passes and also whether or not the State would be subject to a suit if no action is taken prior to passage of the bill.

Assemblyman Boatwright summarized that if the property is amended out of the bill, the owner has nothing to worry about, and he is free to sell to anyone; if the property remained in the bill, the owner has nothing

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to worry about anyway, since Mr. Fullerton has already indicated he would act inasmuch as he doesn't see any point in delaying the acquisition at that point. He concluded, however, that it would be entirely wrong for the Board to approve the acquisition at this time before the legislature determines whether or not the property stays in or out of the legislation.

Mr. McCausland agreed that, with the receipt of additional testimony this morning, the June 21, 1977, action of the Board should stand.

IT WAS MOVED BY MR. MC CAUSLAND, SECONDED BY ASSEMBLYMAN BOATWRIGHT, AS A JOINT MOTION, THAT THE WILDLIFE CONSERVATION BOARD DIRECT MR. FULLERTON AS DIRECTOR OF THE DEPARTMENT OF FISH AND GAME TO SEEK LEGAL OPINION ON THE QUESTIONS RAISED AND THAT THE BOARD WILL RECONVENE FOR FURTHER CONSIDERATION OF THE PROPOSED ACQUISITION UPON RECEIPT OF SUCH LEGAL OPINION.

PASSED UNANIMOUSLY.

There being no further business, the meeting was adjourned at 11:15 a.m.

Respectfully submitted,

Chester M. Hart

Chester M. Hart
Executive Officer