



HAYWARD AREA SHORELINE PLANNING AGENCY

City of Hayward
East Bay Regional Park District
Hayward Area Recreation and Park District

February 8, 2024

- 3:00 PM -

In-Person and Remote Participation

HASPA Board of Trustees Meeting Agenda

A Joint Powers Authority comprised of the East Bay Regional Park District, Hayward Area Recreation and Park District, and the City of Hayward.

Meeting location: HARD District Office at 1099 E Street, Hayward, CA and online via Zoom (Register for meeting link: https://ebparks.zoom.us/webinar/register/WN_3tI3IMkBSvSIEG1mxI9p8Q)

Special notice regarding public participation:

The Hayward Area Shoreline Planning Agency (HASPA) intends to hold meetings through a hybrid platform of in-person and remote attendance to allow members of the public to participate via remote attendance through the East Bay Regional Park District's (EBRPD) virtual platform, Zoom. The Board of Trustees and designated staff will, with limited exceptions, participate in-person at the office of HARD, District Office at 1099 E Street, Hayward, or other designated public facility within the HASPA service area. Occasionally, members of the Board of Trustees may attend remotely as permitted by the Brown Act.

For those members of the public not attending in-person, public comments may also be submitted one of in the following ways:

1. Send an email to asanders@ebparks.org by 12:00 p.m. the day of the meeting. Please identify the Agenda Item Number in the subject line of your email. Emails will be compiled into one file, distributed to the HASPA Board of Trustees and Technical Advisory Committee (TAC) staff, and published on the EBRPD Public Meeting Page (<https://www.ebparks.org/calendar/public-meetings>). Written comments received after 12:00 p.m. that address an item on the agenda will still be included as part of the record.

2. Live via Zoom. If you would like to make a live public comment during the meeting this option is available through the virtual meeting platform: *Note: this virtual meeting preregistration link will have you preregister for the meeting and then provide you details to the virtual meeting for the purpose of providing a public comment: Preregistration required: https://ebparks.zoom.us/webinar/register/WN_3tI3IMkBSvSIEG1mxI9p8Q

Comments received during the meeting and up until the public comment period on the relevant agenda item is closed will be provided in writing to the HASPA Board of Trustees. All comments received by the close of the public comment period will be available after the meeting as supplemental materials and will become part of the official meeting record. If you have any questions, please contact Amanda Sanders at asanders@ebparks.org or (510) 544-2650.

How to view the meeting virtually and provide live Public Comment during the meeting: Registration is required at below link. Meeting details will be provided when registration is completed.

When: Feb 8, 2024 03:00 PM Pacific Time (US and Canada)

Topic: HASPA Board of Trustees Meeting

Register in advance for this webinar:

https://ebparks.zoom.us/webinar/register/WN_3tI3IMkBSvSIEGImxI9p8Q

CALL TO ORDER

ROLL CALL

Public Comments

The Public Comment section provides an opportunity to address the Board on items not listed on the agenda. The Board welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the Board or are within the jurisdiction of the Board. As the Board is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.

- 1. Approval of Minutes from the HASPA Meeting Held on December 7, 2023 - Draft Action Minutes of December 7, 2023 (Attachment 1)**
- 2. Election of 2024 HASPA Chairperson**
- 3. City of Hayward Project Update – Data Center (City Staff)**
- 4. Update on JPA Agreement (Devan Reiff, EBRPD) (Attachment 2)**
- 5. Selection of Special Meeting Dates (March – June, 2024)**
- 6. Old/New Business (TAC)**
- 7. Board Member Announcements**
- 8. Agenda Setting for Next Meeting**

ADJOURNMENT

HASPA facilities and meetings comply with the Americans with Disabilities Act. If special accommodations are needed for you to participate, please contact EBRPD staff at (510) 544-2325 as soon as possible, but preferably at least three working days prior to the meeting.

Attachment 1: DRAFT 12.7.2023 HASPA BOT Meeting Notes

**HAYWARD AREA SHORELINE PLANNING AGENCY
City of Hayward
East Bay Regional Park District
Hayward Area Recreation and Park District**

Meeting of Board of Trustees
Hybrid Meeting: Hayward Area Recreation and Park District Office & Zoom
December 7, 2023

DRAFT MINUTES

HASPA TRUSTEES PRESENT:

Dennis Waespi, East Bay Regional Park District, HASPA Chair
Lou Andrade, Hayward Area Recreation and Park District (Alternate)
Francisco Zermeño, City of Hayward

HASPA PROSPECTIVE TRUSTEES PRESENT:

Eric Hentschke, Alameda County Mosquito Abatement District
Rita Duncan, Oro Loma Sanitary District

HASPA TAC MEMBERS PRESENT:

Devan Reiff, East Bay Regional Park District
Eddie Willis, East Bay Regional Park District
Robbie Parry, East Bay Regional Park District
Taylor Richard, City of Hayward
Erik Pearson, City of Hayward
Brian Laczko, Hayward Area Recreation and Park District
Erika Castillo, Alameda County Mosquito Abatement District
Jackie Zipkin, East Bay Dischargers Authority
Jimmy Dang, Oro Loma Sanitary District

STAFF:

Amanda Sanders, East Bay Regional Park District
Jason Rosenberg, East Bay Regional Park District
David Riensche, East Bay Regional Park District
Makenna Colucci, City of Hayward

VISITORS:

None

CALL TO ORDER: A special meeting of the Hayward Area Shoreline Planning Agency (HASPA) was called to order at 3:03 P.M. by Dennis Waespi, HASPA Chair, and role was taken by Devan Reiff.

1. Approval of Minutes from the HASPA Meeting held on October 26, 2023 - Draft Action Minutes of October 26, 2023

Trustee Zermeño motioned the vote and Trustee Andrade seconded. Vote: Ayes – Zermeño, Andrade, Waespi. Approved unanimously.

Public Comments: None

2. City of Hayward Project Updates (City Staff);

Taylor Richard gave an update of a proposed data center development project south of State Route 92 (Hayward -San Mateo Bridge) along Eden Landing Road, and Production Avenue. As proposed, it would include demolition of nine existing industrial and office buildings, develop a 300,000 square foot, three story data center, a 14,000 square foot, one story data center, a 15,000 square foot security building, 28 generators in two generator yards, and an onsite project substation. The site is 11.37 acres, on two parcels. The project planner is going to bring it to the Hayward Planning Commission for a work session presentation. Chair Waespi asked what does 116 feet of building height look like and is it near the shoreline? Taylor replied that yes, it is near shoreline, the current height limit in the zoning code is 75 feet tall and this development would require special approval. As a comparison, the Hines data center is around 80 feet tall. The height exception requires that the project provides public amenities. Chair Waespi requested a visual of where the project is located, and Taylor will bring it to the next HASPA meeting. Chair Waespi also questioned if there be noise contingency. Taylor said the proposed development will need an EIR which will look at noise impacts and potential bird strikes from a building that tall. Taylor could invite the City staff who is the project manager to come next HASPA meeting. The lead agency is the California Energy Agency because the development includes is a small powerplant. Prospective Trustee Duncan asked what the public amenities are for project approval. Taylor said actual amenities are required like parks, trails, sports courts for the public to use, not just smaller public facilities such as public available restrooms.

3. JPA Agreement Update (Devan Reiff, EBRPD)

Devan Reiff gave an update on the JPA agreement. HASPA is looked at as a model JPA around the Bay Area. Devan is on a steering committee with a group called Oakland Alameda Adaptation Committee, and they are considering forming a JPA based off of the HASPA model. Legal counsel has sent the completed set of recommendations for a draft JPA agreement which will be sent to the TAC soon by Devan. In February, the BOT will see the draft JPA Agreement provisions. Trustee Andrade said that HARD looked at the language is currently not happy with how the weighted voting is set up, especially for matters that encumber funds or require dues increases. Trustee Zermeño asked if there are any more modifications coming up. Devan replied that it will be mostly the same provisions that they saw in October. Trustee Zermeño, asked if the fees/budget changed. Devan said that the 2025 Dues are the same as proposed earlier. Prospective Trustee Duncan gave her instructions that Oro Loma can't participate on the BOT, until all the property owners along the shoreline are invited to join HASPA, and that the other property owners are also going to help fund the shoreline's protection. HASPA should model One Shoreline, a JPA of flood control agencies and local jurisdictions in San Mateo County. Prospective Trustee Duncan suggested that we reach out to other landowners, and that they should also bear responsibility of the cost of operating HASPA. Jason Rosenberg, legal counsel with EBRPD, stated that the feedback that is being given is a departure from the last direction that was heard from the BOT. If the new direction is to have a majority plus for voting decisions, then we will need to have a more in-depth conversation at the February meeting. HARD wants to make sure that their vote counts, and when voting on funds encumbered, requests some type of super majority to vote on expenditures. Jason stated that we can take this input and work on it, but wanted to reiterate that there is always the option for an agency to remove themselves from the JPA (if they fundamentally disagree with a proposed fee or budget). Trustee Zermeño asked if we are still able to meet our objectives while working on the JPA language. Devan stated that the staff's main task is to create the new JPA and get any issues worked out now, and that this was staff's main order of business. Jason said that we currently have until July 2024 before the current JPA Agreement expires. Chair Waespi said that while we have time, we are running out of money, as our budget has gone to paying attorney's fees for the JPA negotiation. Trustee Andrade said that both HARD and Oro Loma have to answer to their Boards, but this is the first time the BOT has been able to give staff feedback on the percentages in Schedule C (the table of Tiered dues and weighted voting). Jackie Zipkin stated that EBDA JPA agreement has weighted voting, but there are certain situations there where a supermajority vote is required. Chair Waespi said that he would prefer that the TAC make the edits to the JPA language, instead of continuing to use attorneys. Trustee Andrade said that a super majority vote could be two largest agencies plus one additional agency. Trustee Zermeno said that the trustees and prospective trustees are here because we want to be here, so everyone needs to talk with their Boards to get approval. Trustee Andrade said HARD still wants to have a voice at the table.

Prospective Trustee Duncan said that the Oro Loma Board thinks there should be much more effort in getting more agency members to join the HASPA Trustees. The five organizations should

be doing outreach to get more members to join the JPA. Chair Waespi said that we need to lobby the Alameda County Board of Supervisors, so that the Alameda County Flood Control District will join as a HASPA Trustee in the future. It is incumbent on the HASPA Board to be doing that outreach. Prospective Trustee Duncan asked what is needed from us? The reply was the need to schedule a visit to the Alameda County Board of Supervisors. Chair Waespi said that people need to talk to other elected officials, giving Supervisor Nate Miley as an example. Trustee Zermeño said that he is willing to go before the Board of Supervisors to talk about HASPA, Prospective Trustee Duncan suggests they should all go as a group to speak to the Supervisors. Chair Waespi said that with the new 2025 HASPA budget we can work on outreach. Trustee Zermeño mentioned that we need to put together a community engagement plan.

Jason Rosenberg said that he still needs to review the draft JPA language prepared by the attorneys. The baseline vote structure is currently stated in the JPA draft is: one agency equals one vote. A trustee would need to request before the vote that it be weighted voting. Jason suggested meeting with the TAC to come up with some options such as suggesting a threshold for weighted voting. Jason would like to meet with Prospective Trustee Duncan to understand Oro Loma's concerns. Trustee Andrade mentioned that the language needs to be highlighted that shows majority voting structure in the JPA language, as it wasn't clear with the weighted voting tables. Trustee Zermeño asked Hayward staff if Measure D is only for members? Measure D funds have to be used for things recycling related. Taylor made a comment related to the idea of the State of California joining HASPA. The State didn't want to join at the time (a few years ago), because they are a funding agency, because they can give HASPA money through grants. They can be TAC members, but to be able to grant HASPA funds they don't want to have a conflict of interest. Prospective Trustee Duncan asked about ownership in the HASPA area. Devan said that the State owns 83 acres in the HASPA service area, north of the Hayward – San Mateo Bridge.

4. Adoption of 2024 HASPA Board Calendar (Devan Reiff, EBRPD) (Attachment 2)

Meetings of the HASPA Board in 2024 are proposed as February 8, April 11, July 11, and either October 10 or November 14. Board members had no conflicts with first three dates. Trustee Zermeño would like the October 10th date and Trustee Andrade agreed.

Motioned by Trustee Zermeño, Seconded by Trustee Andrade. Vote - passed unanimously.

5. Presentation: Algal Blooms in SF Bay (Jacqueline Zipkin, General Manager, East Bay Dischargers Authority)

Jackie Zipkin of East Bay Dischargers Authority gave a presentation about nutrients in SF Bay, the 2022 algal bloom and what the response and expectations are. Nutrient discharges are of concern all over the world. Eutrophication & harmful algal blooms are both issues of concern. The SF Bay has high turbidity blocking the light phytoplankton needs to grow, plus strong tidal mixing reduces nutrient concentrations and filter-feeding clams. Two-thirds of the annual nitrogen loads comes through the wastewater facilities. There are 37 wastewater treatment plants for around 7.1 million people in the SF Bay. Watershed permit #1 was from 2014-2019 for regional management of nutrients. It included effluent monitoring, analysis of loading trends via group annual report, support for scientific studies, and treatment optimization and upgrade studies.

Watershed permit #2: 2019 – 2024 allows for regional management of nutrients. It included influent and effluent monitoring, analysis of loading trends via group annual report, increased support for scientific studies, and load reduction via recycled water and nature-based solutions studies.

The 2022 bloom of *Heterosigma akashiwo* was observed in late July 2022, first off of Alameda Oakland shoreline. This species is one of 14 on the nutrient management strategy watch list. It expanded through South Bay, and became a Major Harmful Algal Bloom (HAB) event. Nutrients didn't trigger the event, but they were the fuel. Potential triggers include low suspended sediment concentrations, many sunny days and windows of calm winds. The 2023 bloom was the same organism, *Heterosigma akashiwo* but less severe. There is political and regulatory pressure to reduce more nutrients faster – reducing nitrogen loads. Chair Waespi asked what the nutrient flow is related to. Jackie replied that it is based on how well nitrogen is already removed by a treatment plant, so it isn't directly related to amount of population and flow.

Nature based solutions have been shown to work through EBDA projects like Oro Loma First Mile Levee Project. EBDA members have projects to remove nutrients and improve performance of nitrogen reduction. Strategies include optimization with 7% total nitrogen load reduction to the Bay, sidestream treatment at 19%, upgrade level 2 (15 mg N/L) at 57%, and Upgrade Level 3 (6 mg N/L) at 82% reduction.

The third Watershed Permit for 2024-2029 is currently in negotiations, which will have nitrogen limits that agencies must meet. Trustee Andrade asked if the technology is there, Jackie replied that it is, but it is expensive. Erik Pearson asked where the other one-third of nitrogen comes from, Jackie said storm water runoff, the Delta, and from a Sacramento treatment plant discharge. Eddie Willis wondered if people working more from home has any change with where people are spending their time during the day. Jackie replied that in general it hasn't changed much. Taylor Richard asked when the limits would be on discharge. Jackie said only during the dry season, May through September.

6. Presentation: First Successful Nesting of Black Oystercatchers Among Endangered California Least Terns Along the West Coast of North America, (Hayward Shoreline) (David "Doc Quack" Riensche, EBRPD Wildlife Biologist) (Attachment 3)

David "Doc Quack" Riensche has worked with EBRPD for 35 years as a wildlife biologist. He gave a presentation about the first documented occurrence of Black Oystercatchers nesting among endangered California Least Terns along the West Coast of North America. The two nesting seasons documented occurred at the volunteer-built "Tern Town" area of the Hayward Regional Shoreline. Study objectives including supporting the US Fish & Wildlife Service Recovery Plans for California Least Tern and White Snowy Plover, undertake scientific studies and record discoveries. "Tern Town" boasts the second largest endangered California Least Tern colony in the northern part of the species range, with 140 nesting pairs - the highest density anywhere. Tern Town provides protected breeding areas for thousands of migratory and other shorebirds.

The presence of a nesting pair of Black Oystercatchers among the Least Terns on Tern Town, with no evidence of attacks or harm between the birds is the unique observation of this science.

Prospective Trustee Duncan left the meeting at 4:21pm

7. Old/New Business (TAC)

None

8. Board Member Announcements

- Alameda County Planning is preparing a Climate Action Plan, except there wasn't any sea level rise mentioned in the plan. Trustee Andrade sent them the HASPA Master Plan to review.
- Chair Waespi – EBRPD is celebrating 90th anniversary in 2024
- Trustee Andrade – HARD is celebrating 80th anniversary in 2024

9. Agenda Setting for Next Meeting

- Create a draft outreach plan for other agencies to join JPA, suggested by Trustee Zermeño

ADJOURNMENT @ 4:53 pm

Attachment 2: JPA Agreement Discussion**HAYWARD AREA SHORELINE PLANNING AGENCY****Memorandum**

DATE: February 8, 2024

TO: HASPA Board of Trustees, TAC

FROM: Devan Reiff, EBRPD

SUBJECT: Informational Update on JPA Agreement

At the December 7, 2023, HASPA Board of Trustees (BOT) meeting, staff presented and the Trustees discussed provisions for the new Joint Powers Authority (JPA) agreement. Trustees and prospective Trustees raised concerns about weighted voting among other issues, concerns which were addressed by legal counsel in a final draft JPA agreement. This final draft was circulated to the Technical Advisory Committee (TAC) on January 2, 2024 for their review and comment. The current version of the draft JPA agreement also addresses those comments received from the respective Trustees' counsel offices from earlier in 2023. After three weeks of review, counsel offices of Trustees and prospective Trustees have provided further comments on this version of the JPA agreement.

Staff will present an update on the latest iteration of the JPA agreement, for the Board to provide direction to staff, with the goal of an agreement between the parties for adoption in Spring, 2024