

**CALIFORNIA CULTURAL AND HISTORICAL ENDOWMENT
BOARD MEETING
DRAFT MINUTES**

**Friday March 3, 2006
10:00 A.M.**

Location: San Diego Natural History Museum
1788 El Prado
San Diego, California

Members of the Board in attendance:

Ms. Susan Hildreth, Chairperson
Ms. Suzanne Deal Booth
Ms. Cynthia Campoy Brophy
Mr. Walter Gray, representing Michael Chrisman
Ms. Georgette Imura
Ms. Arabella Martinez
Mr. Bobby McDonald
Ms. Betsy Reeves
Ms. Anne Sheehan, representing Tom Campbell
Mr. James Irvine Swinden

Representing the Senate

Honorable Christine Kehoe
Ms. Deanna Spehn

Staff in attendance:

Ms. Diane Matsuda, Executive Officer
Ms. Christine Sproul, Deputy Attorney General
Ms. Rachel Magana, Executive Secretary

1. Roll Call

Chairperson Hildreth called the meeting to order at 10:10 a.m. A quorum was established.

2. Chairperson's Report

Chairperson Hildreth expressed appreciation to the San Diego Natural History Museum for use of their facility. She said she was happy that Senator Kehoe was able to attend today's meeting.

Chairperson Hildreth said that the purpose of this meeting is to provide the Board with an update on Round Two grants, as well as to review projects

from Round One, particularly projects where the Board has imposed a deadline date. Final decisions need to be made in order to move toward Round Three and to know what funds may be available for reallocation.

There will also be discussion, and an opinion from the Attorney General, regarding the religious facilities and Endowment grants. Deputy Attorney General Christine Sproul will be filling in for Attorney General Staff Counsel Marianne Moe who is on vacation.

There were no comments from the public.

3. Approval of Minutes for September 13, 2005 and October 25, 2005 CCHE Board Meeting (action)

Ms. Sheehan moved approval of the September 13, 2005 minutes; seconded by Mr. Swinden. Motion carried unanimously.

Ms. Sheehan moved approval of the October 25, 2005 minutes; seconded by Ms. Booth. Motion carried unanimously.

There were no comments from the public.

4. Approval to submit Conflict of Interest Code for CCHE Board Members and Staff to FPPC for Adoption (action)

Ms. Matsuda said that under the Political Reform Act, each agency is required to adopt a Conflict of Interest Code. At the May 18, 2005 Board meeting the Board reviewed a proposed Conflict of Interest Code and directed staff to proceed to submit it to the Office of Administrative Law for publication. The proposed Code was published on December 9, 2005 and there were no comments or requests for a public hearing. The Code is now ready for approval by the Board

Ms. Matsuda noted that until the Code is effective, the Board members should continue to file their annual full disclosure Form 700. Any Board members who have not taken the Ethic Training Class within the last two years will be required to do so and then asked to submit the documentation of compliance to CCHE.

Mr. McDonald moved approval to submit the Conflict of Interest Code for CCHE Board members and staff to FPPC for adoption; seconded by Ms. Booth. Motion carried unanimously.

There were no comments from the public.

5. Executive Officer's Report

Ms. Matsuda introduced staff members Ms. Rachel Magana and Michelle Itogawa. She then provided a PowerPoint presentation giving an overview of the Round Two applicants. The deadline date for the grant applications was January 31, 2006. Two hundred sixty three grant applications were

received. The total amount of grant applications received in Round One was 276, with a cumulative total amount of \$433,895,588, and in Round Two CCHE received 263 applications with a cumulative total amount of \$254,857,241.40.

She explained that in Round One people felt there were many unknowns and because it was a new program the applications were not as clear as to what constituted not only capital asset cost, but a capital asset project. The decision-making process was not as thoroughly defined as it had been in Round Two. Also in Round One the budget was broken down more generally than in Round Two. So in Round Two people had to have good strong estimates in order to submit their application. There has been a reduction in the maximum amount for projects. It is now 3 million versus 5 million for Round One.

Applicants are now able to look at the criteria that have been posted, or are included in the application, to see how their project can be competitive. This will also provide reviewers with a better understanding of what the actual capital assets project is. There are also policies on time limitations, clearer information about CEQA compliance, and policies about matching and what constitutes an in-kind contribution, and other ways to fulfill a matching fund requirement.

Chairperson Hildreth said the staff has prepared a table of all the applications that have been received for Round Two and it is available on the table for anyone interested. She asked Ms. Matsuda to remind the Board of the criteria for the various divisions. Ms. Matsuda explained Division 1 is available for non-profit organizations who have an annual operating budget of less than 500,000; Division 2 is available for non-profit organizations who have an annual operating budget of between 500,000 and 2 million; Division 3 is available for non-profit organizations who have an annual operating budget of 2 million or more; and Division 4 is for public agencies and tribal organizations.

Ms. Brophy asked what the response of the non-profits was regarding the planning grant. Ms. Matsuda said there were 33 applicants for Planning Division 1, which is a significant indicator that there are a lot of younger non-profit organizations who have not entered into the arena of owning their own building or making major renovations on their own buildings. This gives an opportunity to a non-profit applicant to provide a planning grant.

The next item Ms. Matsuda discussed was the panel review change. The change consists of the Endowment having grant reviewers read the applications, score them, and return the information back to the CCHE office. Staff is currently in the process of sending out the applications to reviewers for comments. They will be due back to the office by the end of March. She felt staff would be able to present to the Board at its April meeting those applicants who have scored within the top 25 percent of their division.

In regards to reviewers, approximately 40 individuals have sent back their conflict of interest form and have the expertise to review applications in

various divisions. A request for reviewers has been posted on the website and she has contacted reviewers that were used in Round One. The applicants will have multiple reviewers (reviewed at least twice by two individuals). The goal is for an average of three reviewers per application.

The Endowment made a formal request to the Attorney General's office as to whether providing CCHE grant funds for the reconstruction or renovation of buildings or facilities with historical and/or religious affiliations would be consistent with certain provisions of the California Constitution. The Attorney General's office responded with a 22-page letter providing general guidance to use during Round Two of the grant application review process. The letter sites a number of different cases with various fact patterns and will be used as a general foundation for reviewing the grants.

Ms. Sproul said the letter from the Attorney General's office has been posted on the website and it is available for everyone to review. She said what she finds in reading the letter is that it discusses in great detail different factual situations and that if there is ownership of a facility by a church or religious organization, that raises a question and may be a bar to a grant. If the facility is being used primarily for religious purposes and continues that use that may be a bar to a grant. If the institution seeking the State's aid is pervasively sectarian or associated with a religious sect or other religious organization then that may be a bar to a grant.

Ms. Sproul said the review will entail determining whether the proposed grant activity to be funded would have a direct, immediate and substantial effect of advancing religion. When a facility is to be renovated, or where the activities are occurring is owned by a religious organization, or has current religious affiliation it is likely to violate the Constitution. If the overall effect of the funding is to promote religion it would disqualify the applicant.

If the institution receiving the grant is not a church, but for example a school that is owned by a religious organization and the school is operated in the manner that every student has to take religious instruction, then the grant would be viewed as promoting religion.

Under the Lemon test, three prongs have to be met before it can be determined that there is not a violation of the Constitution. First, the challenged activity must have a secular purpose. Second, the primary effect of the activity funding must neither advance nor inhibit, so it must be neutral to religion, and, finally, it must not foster excessive government entanglement with the religious practice or religious organization.

Ms. Sheehan asked Ms. Matsuda how many applications there are in which this issue is involved. Ms Matsuda said that three have been identified.

Ms. Brophy asked if any are affected by this in the First Round. Ms. Matsuda said she will be informing the applicants that applied during the first round of this letter from the Attorney General because technically they have been on hold. Ms. Brophy said since these are general recommendations and it may have to go on a case by base basis, is it the responsibility of the

applying organization to make the case. Ms. Matsuda said it would be the responsibility of CCHE to respond back to them using the letter as a general reference and then ask for specific legal advice as to how it would directly apply to their particular facts.

Senator Kehoe said this discussion parallels last year's federal legislation when Barbara Boxer directed some federal funds to California Missions for Restoration. Ms. Sproul said the distinction is that CCHE is driven by the provisions of the California Constitution which doesn't constrain the federal funding activity. Senator Kehoe asked if any finalists in Round One are subject to this discussion. Ms. Matsuda said she does not believe that any of the 57 applicants that came before the Board in December of 2004 were subject to this particular opinion letter.

Mr. Gray said that he doesn't anticipate that there are applications pending that apply to this. He said he could imagine traditional places of worship, or locations, or facilities, that are used incidentally or primarily for spiritual purposes but may not be either owned by or utilized by what may be considered a formally constituted religion. Ms. Sproul said this is something she will research.

Chairperson Hildreth said even though some guidelines are set forth in the opinion letter, it will be reviewed on a case-by-case basis.

Ms. Matsuda said the next item of her report has to do with the reservation of funding to pay for program costs. The Board passed a motion to reserve \$500,000 from Round Two funding to pay for program costs, such as CEQA related expenses, as well as other expenses dealing with the review of appraisals for real property and long term leases. Staff met with the Resources Agency to determine how to logistically implement the policy, and they were informed that in order to use the money reserved by the Board, it would need to include additional funds to a particular project to cover these specific costs.

Ms. Sheehan questioned if this is how CCHE wants to handle this funding issue going forward. Would new money be approved in a bond or would there be an adjustment with the preference to be an adjustment to the administrative costs percentage? Ms. Matsuda said she didn't know what the percentage would be for administrative costs if new bond moneys were to come through the Endowment. Ms. Sheehan said that staff may want to think about whether changes should be made or if they want to continue to do it this way.

Senator Kehoe asked what the costs have been when CCHE has acted as the lead agency. Ms. Matsuda said she doesn't know because she has not received an invoice yet. She said that in Round Two there may be cases where CCHE will serve as the lead agency if there have not been any other public agencies that have come forward to participate in a particular project. She should have the cost figures from the Department of General Services as to how much it will cost generally to review the appraisal for a long-term

lease and the appraisal for a piece of real property as well as just some cost estimates for CEQA by April's Board meeting.

Senator Kehoe asked if CCHE has been a lead agency would CCHE then be liable for the legal response to a suit? Ms. Sproul said this is a discussion that should occur with Ms. Moe when she returns from vacation. Senator Kehoe asked if the Endowment could advise smaller organizations to carry a one million dollar rider. Ms. Sproul asked if Senator Kehoe had information available from the City of San Diego that the Endowment could use as an example and Senator Kehoe said she would be happy to provide her with the information.

Mr. Gray said the Board should remain mindful of the Endowment's goal to serve as lead agency of last resort. The current application policy asks for evidence of completed environmental review and this is evidence of project readiness and could be one of the discriminating factors relative to deciding whether to proceed with a project or not.

Ms. Matsuda said the final part of her report is whether CCHE would be able to consider landscapes as a capital assets project. The State's Bond Counsel advised that if an applicant can document that landscaping elements will have an expected useful life of 10 to 15 years they would qualify as a capital assets project. This has been included in the frequently asked questions.

Public Comment

There were no comments from the public.

6. Review of Projects Reserved for Funding from Round One for either: an approval of funding; continued reservation of funding; or removal of further consideration of funding (action)

- Dunbar Economic Development Corporation located in the City of Los Angeles, County of Los Angeles requesting \$648,000. Staff requested information by the deadline date of December 13, 2005 but the information was not received. This morning an e-mail was received from Dunbar Economic Development Corporation respectfully withdrawing their application for Round One.
- Search to Involve Pilipino Americans is located in two areas: the City of Stockton, County of San Joaquin and the City of San Francisco, County of San Francisco and they are requesting \$1,279,994 for the Stockton project and \$238,500 for the San Francisco project. Staff requested more information from SIPA on November 13, 2005 and when it was not received another letter was sent on December 29, 2005 advising them that staff would be informing the Board that the information had not been received by the deadline date. Staff is recommending that the funds that had initially been reserved for the SIPA project be released and be allowed to be considered for allocation in the Third Round. This would be removing the reserve funding for this project and directing the funds back to the General

Fund. All the projects have a 10 percent holdback, and if this action goes forward that will be removed.

Mr. Swinden moved to adopt staff's recommendation for SIPA; seconded by Ms. Sheehan. Motion carried unanimously.

- Table Mountain Rancheria located in the city of Friant, County of Fresno, requesting \$617,620. Table Mountain Rancheria was given a deadline date of January 31, 2006 to submit information to capture the thread of their project. On January 31, 2006 a response from Table Mountain included a 15 page outline, as well as copies of letters supporting the Tribal Museum and Cultural Center grant. Staff had the 15-page outline reviewed by two independent consultants and one of the consultants will assist in reviewing the information as it relates to the Native American community.

In addition, at the October 25th Board meeting Kathy Lewis expressed that she was concerned on behalf of several people against the Fort Miller project. Staff recommends that a meeting be convened between the Table Mountain Rancheria representatives and the individuals who are opposed to this.

Public Comment

Mr. Pennell said on the subject of the outside consultant review of the outline, Table Mountain Rancheria welcomes any review and comment on the content of the museum, but as he welcomes the comments, he requests that it not delay the funding process.

Mr. Lewis Barnes feels that CCHE should fund the museum because there are a lot of artifacts that people in Fresno County haven't seen.

Board Comment

Ms. Imura stated she was one of the Board members who expressed some concerns after the last meeting when she heard Ms. Lewis speak, but after reviewing the information and the 15-page outline she feels a meeting would not be required. Her recommendation would be to approve the project today.

Ms. Reeves asked if the letters of support submitted with the packet, advocate the Fort Miller restoration project. Mr. Pennell said the letters are specific to the restoration of Fort Miller and this restoration is a part of the overall museum project. Ms. Reeves asked where there might be other opportunities for people to go to learn about the Indian culture in the San Joaquin Valley. Mr. Pennell said the only current museum is a very small project in North Fork that displays basketry and some artifacts.

Mr. Reeves asked Mr. Pennell if the museum would serve as a conduit for young people. Mr. Pennell said one of the departments at

the Table Mountain Rancheria is the Tribal Learning Center. They work with students for after school programs and in school outreach grades K-12.

Ms. Sheehan asked if this was an additional request on behalf of the staff for Table Mountain Rancheria to provide. Ms. Matsuda said this particular project brought forward a lot of public comment, and several members of the Board expressed that it was unclear about the specific thread that was going to be represented. So staff felt it needed to seek outside opinion and advice as to whether the information presented captured that particular thread. Ms. Sheehan suggested that this item be brought back to the April meeting for consideration, once staff has had time to review additional information from consultants.

Mr. Gray said he believes the Board is subjecting this applicant to a high standard relative to a potential issue of controversy. He believes that the Board should approve the project in good faith based on the materials that were submitted. He said he believes that it is not the role of this body, after funding has been approved, to attempt to resolve inherent conflict. Mr. Swinden, Ms. Reeves, and Ms. Booth agreed with Mr. Gray.

Chairperson Hildreth asked Ms. Matsuda if the other components for this project are in place. Ms. Matsuda reported that staff has not received the final information back from the Department of General Services regarding CEQA compliance. Chairperson Hildreth said action could be taken contingent on receiving the final CEQA documents.

Mr. Swinden moved to approve the funding for this project subject to the CEQA documentation being received by April 30, 2006; seconded by Ms. Imura. Motion carried unanimously.

- Oakland Museum of California Foundation located in the City of Oakland, County of Alameda requesting \$2,887,500 to rehabilitate a portion of the museum to house artifacts specifically related to California history. The deadline to submit information from the Oakland Museum California Foundation was on January 31, 2006. Staff has been working with the Oakland City Attorney's office to make sure the license is to revise the agreement to provide for exclusive control of the premises and for specific long-term lease. Further information was received from the City Attorneys Office on February 10, 2006 and has been forwarded to CCHE's attorney for review. Staff recommends that the Board continue to reserve funding for this project until May 30, 2006. The delays in obtaining the information are due to the fact that the Executive Director of the Museum Foundation resigned during this process. Staff recommends that the reservation of funding for this particular project be continued until May 30, 2006.

Public Comment

Mr. Mark Medeiros with the Oakland Museum of California said they are going to meet with the Landmark Subcommittee on March 30 and he hopes to get on their agenda for April to obtain full approval, or in May at the very latest. Compliance with CEQA should occur by April. A new Executive Director will start work on March 13.

Board Comment

Ms. Sheehan said if everything is in place by May, then they would have to wait until the next Board meeting in July for approval. She asked if staff felt there would be any issues that would have to come back to the Board other than the CEQA documentation. Ms. Matsuda confirmed that there would not be and if the Board would be interested in making sure that the Oakland Museum of California Foundation is on the agenda for April then the project could be allowed to move forward contingent on CEQA compliance.

Ms. Sheehan moved to approve the staff recommendation with the specific note to have this calendared again for the next meeting in April; seconded by Ms. Martinez. Motion carried unanimously.

- Latino Theater Company located in the City of Los Angeles, County of Los Angeles requesting \$4 million. The Board required the Latino Theater Company to submit documentation indicating that they had a legal agreement with the City of Los Angeles to obtain exclusive control of the premises. Staff reported that this particular project has fulfilled all the requirements that were set forth and recommends that the project be approved for funding in the amount of \$4 million.

Public Comment

Mr. Jose Valenzuela, Artistic Director of the Latino Theater Company and President of the Board thanked the Board for their support and patience and asked for approval of this project.

Ms. Sheehan moved to approve the staff recommendation for approval of this project; seconded by Ms. Brophy. Motion carried unanimously.

- Angel Island Immigration Station located on the City of Angel Island, County of Marin requesting \$3 million. The deadline date to submit the information is April 2006. Staff has received information from this organization indicating that they will have all their documentation for CEQA compliance by the imposed deadline date. Staff recommends that the Board continue to reserve funding for this project.

Ms. Sheehan moved to accept staff's recommendation and approve this project contingent on CEQA documentation; seconded by Ms. Booth. Motion carried with one abstention.

- Go For Broke Educational Foundation located in the City of Los Angeles, County Los Angeles, requesting \$1 million. The Board passed a motion at its last meeting to give this project six months, specifically April 25, 2006, to obtain a signed lease with the City of Los Angeles for exclusive control of the center. Staff recommends that the April 25, 2006 deadline remain in place.

Ms. Sheehan moved to approve staff's recommendation for this project; seconded by Ms. Imura. Motion carried unanimously.

- SF Museum and Historical Society located in City of San Francisco, County of San Francisco requesting \$2,887,500. The Board, at its last meeting, to conditionally approve funding for this project provided that the applicant demonstrate a series of 8 items. Staff recommends continuing reviewing this project, confirming that the conditions have been met, and for the Board to take action to extend the time that the Museum must demonstrate long-term control until July 31, 2006. Staff has prepared a resolution for the Board's approval.

Mr. Swinden said if the Board were to approve this resolution it would be inconsistent because Oakland only needs to have their lease reviewed. His thought would be to allow them extra time, but they need to demonstrate they can get this done before the Board passes a resolution.

Ms. Sheehan said her thought would be that their reservation of funds would go away August 1 if they do not meet all the contingencies.

Chairperson Hildreth said the DDA is the instrument that the City and County of San Francisco will use to provide the Museum and Historical Society control.

Ms. Sheehan moved to approve the resolution, but also specifying that funding will revert to the unallocated or the General Fund by August 1 if the conditions are not met; seconded by Mr. McDonald.

Discussion

Mr. Gray asked if there is some way, short of absolutely a drop dead date to maintain the pressure, to ensure compliance recognizing that they have got factors beyond their immediate control upon which satisfaction of CCHE requirements are contingent. He said he will support the motion as proposed, but for the record he established that he feels this is a worthwhile project and there are contingent factors that the Board should be open and mindful about should it come back before the Board in July for reconsideration.

The motion carried unanimously.

7. Motion to Rescind 10% retention on Round One Projects (action)

Ms. Matsuda said at the May 18, 2005 Board meeting a motion was passed to reduce all Round One grants by 10 percent from their overall budget pending a final budget for all projects during this round. However, three projects have been removed; leaving a surplus of \$204,635 and therefore it is no longer necessary for the other remaining Round One projects to deduct the 10 percent from the current budget. Staff recommends that the Board consider a motion to rescind the 10 percent reduction on Round One projects and to direct the remaining \$204,635 to be placed in the general grant funds for future rounds of funding.

Mr. McDonald moved staff's recommendation to rescind the 10 percent reduction on Round One Projects and to direct the remaining \$204,635 to be placed in the general grant funds for future rounds of funding; seconded by Ms. Martinez. Motion carried unanimously.

8. Public Comments on Items not on the Agenda

Mr. Dan Kimball, Director of Development at the Fresno Metropolitan Museum in Fresno said his organization submitted a proposal in Round One, but they were not selected. They have submitted another proposal for Round Two and he wanted to commend the Board and staff on its hard work and commitment to the funding process and to its commitment to the entire cultural arts and historic preservation community. The Fresno Metropolitan Museum (MET) is located in the heart of Central San Joaquin Valley which represents some of the richest agricultural land in the world. The San Joaquin Valley is also one of the most underserved regions and its residents are among the most economically and educationally challenged in California. This project, when complete, will represent the largest cultural investment by any arts organization between Los Angeles and San Francisco. The museum will continually help the community strengthen its understanding of cultural arts and science and the integration of the two disciplines. He emphasized that there is a much needed shift in balance and proper support to this region that is filled with innovative, creative, and talented people who deserve to have strong cultural institutions.

Mr. Alan Ziter, Executive Director of the NTC Foundation said that NTC Foundation is a non-profit that oversees the restoration of 26 abandoned historic buildings in a National Register of Historic Places District on 28 acres at the former Naval Training Center. It is being turned into a San Diego new Arts, Civic, and Cultural District known as NCC Promenade. He has submitted a Division 2 planning grant for Round Two. A vision has been developed for restoring the cornerstone of NTC and opening for the public for the first time a multitude of uses. The CCHE planning grant would help prepare a historic structures report and the garden master plan on these four acres of gardens. He believes this request is the perfect fit for CCHE's mission and asked for the Board's consideration when it comes to vote.

Chris Ervin, President of the Mohave Desert Heritage and Cultural Association said he would like to express appreciation to the CCHE Board

and staff. MDHCA was selected among the first 13 projects in the First Round of CCHE grant awards. Although it has been 10 months since the CCHE Board approved the grant, this has been the first opportunity that he has had to personally and publicly express his gratitude. He also thanked Ms. Matsuda and her staff for their professionalism and support. He invited the Board to visit the Mojave Desert Archives.

Cindy Stankowski from San Diego Archeological Center thanked the Commissioners and staff for the refinements on the application for Round Two.

Tarrell Jackman, Executive Director of the Santa Barbara Trust for Historic Preservation and immediate past president of the California League of Park Associations said that California State Parks have received tremendous cuts over the past couple of years. He encouraged the Board to take a careful look at the ten proposals that are coming in support of capital projects for California State Parks.

Anne Farrell from the Museum of Contemporary Art in San Diego said they have applied in Round Two for the restoration of the historic Baggage Building at the Santa Fe Depot. This 1915 building is being renovated for a museum. She thanked the staff for being so helpful in the application process.

9. Board Member Comments

Ms. Brophy stated, as CCHE is in Round Two, what is the status of additional funding for the Endowment? Ms. Matsuda said there is a piece of legislation pending, SB153, that includes \$100 million for CCHE to use for a competitive grant program.

Ms. Spehn said both the Assembly and the Senate would have to vote on the bond measures the first part of next week, and then the Governor would have to sign and move on it. There are three other bond measures under discussion.

Chairperson Hildreth commented on the fact that everything in Sacramento is quite fluid right now. She said just because an instrument is not ready for June, that this certainly doesn't mean there is not a lot of support and interest in trying to obtain future funding for the Endowment bonds. She suggested that when anyone talks to their legislators about infrastructure needs that they make sure to express the importance of this to them.

Mr. McDonald thanked the Natural History Museum for hosting this meeting today and to Janet Redding for putting this together.

10. Administrative Matters

The next Board meeting is set for April 27 and 28, 2006 in Sacramento to allocate the second round and making funding reservation recommendations.

11. Adjournment (Action)

Chairperson Hildreth asked for a motion to adjourn the meeting. Mr. McDonald moved adjournment of the Cultural and Historical Endowment Board; seconded by Ms. Sheehan.

The meeting was adjourned at 12:45 p.m.