



APPROVED  
BY THE CITY COUNCIL

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JUL 21 1998

JACK CRIST  
DEPUTY CITY MANAGER

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OFFICE OF THE  
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NEIGHBORHOODS, PLANNING AND  
DEVELOPMENT SERVICES DEPARTMENT

July 10, 1998

City Council  
Sacramento, California

Honorable Members in Session:

**SUBJECT:** A RESOLUTION ESTABLISHING APPOINTMENT PROCEDURES AND ORGANIZATIONAL CRITERIA FOR THE NATOMAS BASIN CONSERVANCY BOARD OF DIRECTORS AND THE CONSERVANCY TECHNICAL ADVISORY COMMITTEE

**LOCATION AND DISTRICT:** North and South Natomas  
District 1

**RECOMMENDATION:**

This report recommends that the City Council adopt the attached Resolution establishing the appointment procedures and organizational criteria for the Natomas Basin Conservancy (NBC) Board of Directors and the NBC Technical Advisory Committee (NBC-TAC).

**CONTACT PERSON:** Terence W. Moore, Special Projects Manager  
264-5530

**FOR COUNCIL MEETING OF:** July 21, 1998

**SUMMARY:**

The Natomas Basic Habitat Conservation Plan (NBHCP) and its Implementation Agreement (IA) require that the City Council appoint three (3) members to the NBC Board of Directors and at least one (1) member to the NBC-TAC. Adoption of the attached Resolution will establish nomination and appointment procedures, specify certain organizational criteria such as length of service and payment, and will result in a recommendation to the Council for final appointments.

**COMMITTEE/COMMISSION ACTION:** None

**BACKGROUND:**

The NBHCP acknowledges that the NBC will serve as the Plan Operator and be responsible for acquisition and management of habitat lands. The NBC has existed since 1994 as a non-profit corporation under the laws of the State of California. The NBC Board of Directors is currently not appointed; however, the HCP and NBC by-laws indicate that the Board will be comprised of representatives from each of the three land use agencies expected to obtain permits (City of Sacramento, Sacramento County, and Sutter County). Each agency will appoint three (3) representatives to the Board. Since the City is the only agency to have thus obtained a permit, only City representatives may be appointed to the Board.

The City Attorney has determined that the NBC is not a City Board or Commission. Therefore, appointments to the NBC need not follow procedures contained in City Code Chapter 60.01.0001, "City Council and Commission Appointment Procedure Reform Ordinance of 1983". However, to insure an open public appointment process, staff is recommending that the Chapter 60.01.001 procedure be followed, even though not required by law.

Likewise, the NBHCP calls for the creation of an advisory committee (NBC-TAC) to advise the NBC in making technical and biological decisions. Each land use agency, the U.S. Fish and Wildlife Service and the California Department of Fish and Game, will appoint one or more members to the NBC-TAC. Staff also recommends that the provisions of Chapter 60.01.001 be utilized in making NBC-TAC appointments.

Exhibit A, attached, defines the duties of the NBC and the NBC-TAC as contained in the HCP.

The Sacramento Area Flood Control Agency, while adopting the core principles of the HCP, proposed the following organizational criteria for the NBC. Staff agrees with these criteria and recommends that the Council adopt them as part of the attached Resolution.

Term - Each appointee, except for the initial appointees, shall serve for a term of three years. For initial appointments, one appointee shall serve one year; one appointee, 2 years; and one appointee, 3 years. An appointee may be re-appointed for an unlimited number of terms. All appointees shall serve at the pleasure of City Council.

Compensation - NBC Board members shall be paid \$75 per meeting they attend up to a maximum of three (3) meetings per month. Board members shall be paid from NBC funds. Board members shall receive no other compensation or expense reimbursement for attending NBC Board meetings.

Expenses - NBC Board members may be reimbursed for expenses incurred in connection with NBC business other than Board meetings.

During staff meetings with USFWS and CDEG, it was always assumed that participation on the NBC-TAC would be voluntary, and no payment would be received, unless the TAC member was employed by a land use agency, USFWS or CDFG. Staff, therefore, recommends that Council adopt the following criteria for the NBC-TAC as part of the attached Resolution.

Term - Each City appointee shall serve a two (2) year term. An appointee may be re-appointed for an unlimited number of terms. All City appointees shall serve at the pleasure of the City Council.

Compensation - None, voluntary service

Expenses - NBC-TAC members may be reimbursed for expenses incurred in connection with NBC business, other than regular meetings, as determined by the NBC Board. All reimbursement shall be from NBC funds.

The most pressing issue that the new NBC Board of Directors must deal with is acquisition of habitat lands. Development is occurring in South and North Natomas far more rapidly than anticipated. To date, \$3.26M in HCP impact fees have been collected, \$3M in the last two months alone. The budget currently available to the new Board is approximately as follows:

Land Acquisition -	\$2,245,000
Restoration/Enhancement -	245,000
Admin/O&M -	647,000
O&M Endowment Fund -	<u>123,000</u>
	\$3,260,000

Staff, therefore, recommends that the City Clerk be authorized to expedite the application/appointment process so that the Board can begin the land acquisition process.

#### **FINANCIAL CONSIDERATIONS:**

The appointment of representatives to the NBC Board and NBC-TAC will have no financial impact on City funds.

#### **ENVIRONMENTAL CONSIDERATIONS:**

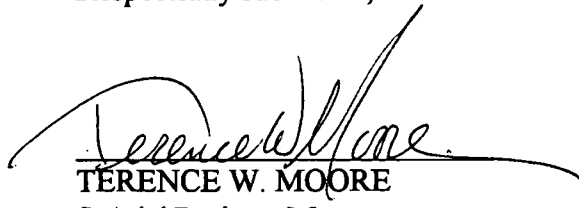
These procedures and appointments do not constitute a Project as defined by CEQA, since there will be no direct or indirect change in the environment as a result of the appointment process.

**POLICY CONSIDERATIONS:**

While not required by City Code, staff is recommending that the appointment procedure contained in the City Code, Chapter 60.01.001 be utilized for the NBC/NBC-TAC appointment process.


**MBE/WBE:** Not applicable to this report.

Respectfully submitted,



TERENCE W. MOORE  
Special Projects Manager

RECOMMENDATION APPROVED:



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WILLIAM H. EDGAR  
City Manager

a. **Natomas Basin Conservancy**

The Natomas Basin Conservancy (NBC), will serve as the Plan Operator and will be responsible for acquisition and management of habitat lands under the NBHCP. The NBC was formed as a non-profit corporation under the laws of the State of California in 1994. It will be governed by the terms of the NBHCP, its commitments within the Implementation Agreements for the respective land use agencies, a Board of Directors, and Bylaws adopted November 23, 1994 (see Appendix G). The NBC Board of Directors will be comprised of representatives from each of the three land use agencies expected to obtain permits under the NBHCP (the City of Sacramento, Sacramento County, and Sutter County); each agency will at the appropriate time appoint three representatives, for a total of nine persons.

The NBC will perform an important function for the NBHCP by establishing and overseeing a concerted Basin-wide program for acquiring and managing mitigation lands on behalf of the permittees. Specifically, the NBC will be responsible for collecting and managing mitigation fees required by the City and Counties, for using the fees to establish mitigation lands, and for managing the mitigation lands for the benefit of the covered species. Mitigation lands will be established through fee simple or easement acquisition. The NBC may legally buy and sell land, lease land for revenue, hold title to conservation easements, etc. As a non-governmental entity, the NBC has no powers of condemnation and can only purchase lands from willing sellers. The NBC will also have full power to establish and sign contracts with appropriate individuals or organizations for the purpose of carrying out specific activities under the NBHCP, including, but not limited to, managed marsh construction, habitat restoration, and monitoring.

All proceedings of the NBC will comply with the Ralph M. Brown Act (California Government Code, Section 54950 et seq.) regarding open and public meetings, and with the California Public Records Act (California Government Code, Section 6250 et. seq.) regarding maintenance of public records. The NBC may, in time, be succeeded by another suitable non-profit entity or by CDFG (see Section 3.4.7 of the City of Sacramento's Implementation Agreement).

b. **NBC Technical Advisory Committee**

As soon as possible after issuance of Section 10(a)(1)(B) and Section 2081 permits to any of the three local land use agencies (the City of Sacramento, Sacramento County, or Sutter County), the NBC will establish a Technical Advisory Committee (TAC) comprised of representatives from the USFWS, CDFG, the land use agencies, and any other permittee (i.e., RD 1000 or NCMWC) to advise the NBC in implementing the NBHCP. Each land use agency or other permittee, the USFWS, and CDFG will appoint one or more members to the TAC. In addition, other qualified biologists, experts on covered species or marsh construction, administrative and legal personnel, and representatives from other permittees (i.e., RD 1000 and NCMWC) shall be invited to assist the TAC, as needed. The TAC's role under the NBHCP is intended to be strictly technical and scientific. It is to advise the NBC in making technical and biological decisions with respect to reserve land selection, enhancement, and management; monitoring programs and needs; species relocation or reintroduction plans; and other issues pertinent to technical implementation of the Plan. Only TAC representatives from the land use agencies, any other permittee, the USFWS, and CDFG shall have the authority to vote with respect to any TAC decision.

APPROVED  
BY THE CITY COUNCIL  
JUL 21 1998  
OFFICE OF THE  
CITY CLERK

# RESOLUTION NO. 98-358

ADOPTED BY THE SACRAMENTO CITY COUNCIL.

ON DATE OF \_\_\_\_\_

## A RESOLUTION ESTABLISHING APPOINTMENT PROCEDURES AND ORGANIZATIONAL CRITERIA FOR THE NATOMAS BASIN CONSERVANCY BOARD OF DIRECTORS AND THE CONSERVANCY TECHNICAL ADVISORY COMMITTEE

### WHEREAS

- A. On December 31, 1997, the United States Fish and Wildlife Service issued the City an Incidental Take Permit under Section 10(a)(1)(B) of the Endangered Species Act.
- B. Also on December 31, 1997, the California Department of Fish and Game issued the City as Management Authorization under Section 2081 of the California Fish and Game Code.
- C. The Incidental Take Permit and Management Authorization will allow urban development to occur within South and North Natomas consistent with the Federal and State Endangered Species Acts.
- D. The Incidental Take Permit and Management Authorization both require the City to adhere to the terms of the Natomas Basic Habitat Conservation Plan (NBHCP) and its Implementation Agreement (IA).
- E. The NBHCP and IA require the City Council to appoint three (3) representatives to the Natomas Basic Conservancy Board (NBC) and at least one (1) representative to the Conservancy Technical Advisory Committee (NBC-TAC).
- F. In order to assure an open and public process for appointments to the NBC Board and the NBC-TAC, it is appropriate that the appointment procedures contained in Chapter 60.01 of the Sacramento City Code be utilized for said appointments.
- G. It is further appropriate for the City Council to specify certain organizational criteria for the NBC Board and the NBC-TAC.

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### FOR CITY CLERK USE ONLY

RESOLUTION NO.: \_\_\_\_\_  
DATE ADOPTED: \_\_\_\_\_

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO THAT:

1. The City Clerk is authorized to commence application and appointment procedures pursuant to City Code, Chapter 60.01, for the following:

- Three (3) representatives to the NBC Board of Directors

- At least one (1) representative to the NBC-TAC.

2. The following organizational criteria shall apply to the NBC:

- Term - Each appointee, except for the initial appointees, shall serve for a term of three years. For initial appointments, one appointee shall serve one year; one appointee, 2 years; and one appointee, 3 years. An appointee may be re-appointed for an unlimited number of terms. All appointees shall serve at the pleasure of City Council.

- Compensation - NBC Board members shall be paid \$75 per meeting they attend up to a maximum of three (3) meetings per month. Board members shall be paid from NBC funds. Board members shall receive no other compensation or expense reimbursement for attending NBC Board meetings.

- Expenses - NBC Board members may be reimbursed for expenses incurred in connection with NBC business other than Board meetings.

3. The following organizational criteria shall apply to the NBC-TAC:

- Term - Each City appointee shall serve a two (2) year term. An appointee may be re-appointed for an unlimited number of terms. All City appointees shall serve at the pleasure of the City Council.

- Compensation - None, voluntary service

- Expenses - NBC-TAC members may be reimbursed for expenses incurred in connection with NBC business, other than regular meetings, as determined by the NBC Board. All reimbursement shall be from NBC funds.

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4. The NBC Board shall adopt other organization criteria, including but not limited to criteria related to meeting attendance requirements; voting procedures; rules for conduct of its meetings, including compliance with the Ralph M. Brown Act, Government Code Section 54950, et seq.; conflict of interest rules in accordance with the Political Reform Act, Government Code Section 81000, et seq.; procedures for acquisition of properties in accordance with the provisions of the NBHCP and its IA; and provisions for employment of such persons as are necessary to implement those documents; and payment of the usual and normal expenses of the NBC.
  
5. The City Clerk is authorized to expedite the application/appointment process.

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**FOR CITY CLERK USE ONLY**

RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_