

Meeting Summary
Negotiated Rulemaking Advisory Committee for Dog Management at
Golden Gate National Recreation Area (GGNRA)

Meeting #2
Tuesday, April 18, 2006
3:15 p.m. – 7:35 p.m.
Fort Mason Officers Club
Upper Fort Mason, San Francisco, CA

Committee Members and Alternates: Cynthia Adam, Carol Arnold, Erin Brodie, Carol Copsey, Betsey Cutler, Anne Farrow, Arthur Feinstein, Gary Fergus, Jeri Flinn, Joe Hague, Mark Heath, Karin Hu, Michelle Jesperson, Steven Krefting, Norman LaForce, Howard Levitt, Bruce Livingston, Cindy Machado, Keith McAllister, Linda McKay, Joanne Mohr, Elizabeth Murdock, Bob Planthold, Brent Plater, Christine Powell (Designated Federal Officer), Holly Prohaska, David Robinson, Christine Rosenblat, Donna Sproull, Judy Teichman, Martha Walters.

National Park Service Staff: Mai-Liis Bartling, Barbara Goodyear, Sandra Hamilton, Daphne Hatch, David Jacob, Paula Lee, James Marks, Noemi Marshall, Judy Matthews, Bill Merkle, Steve Ortega, Yvette Ruan, Shirwin Smith.

Facilitation Team: Greg Bourne, Michael Harty, Catherine McCracken.

Documents distributed to Committee members and alternates on the Negotiated Rulemaking Committee for Dog Management at GGNRA (Committee) at the meeting are listed in Attachment A. Approximately 10-15 members of the public attended all or part of the meeting. The discussion followed the issues and general timing as presented in the meeting agenda, with the modification that a presentation on joint fact finding was added to the agenda.

Welcome and Introductions

Christine Powell, Acting Chief of Public Affairs for GGNRA and the Designated Federal Officer (DFO), welcomed Committee members/alternates and introduced other National Park Service (NPS) staff attending the meeting. The Committee was advised of changes to the meeting arrangements based on comments received following the first meeting.

Decision: The Committee agreed that for purposes of this meeting, until protocols are adopted, the guideline would be for Committee members to lead discussions on agenda item, unless the interests of their alternate were not being articulated, in which case members would defer to alternates.

Review Meeting Agenda and Objectives

The Committee adopted the proposed agenda: approval of March 6, 2006 meeting summary, updates on activities since the first Committee meeting, Committee protocols, GGNRA sideboards for negotiations, summary of key interests and areas of agreement from assessment report, Committee schedule and logistics, and public comment. The term “GGNRA sideboards” refers to the document, National Park Service, Parameters and Scope of Negotiated Rulemaking Discussion.

Approval of March 6, 2006 Meeting Summary

The purpose of Committee meeting summaries is to provide a shared record of discussion topics, key interests, and decisions, and not a verbatim transcript of the Committee’s discussions. Once Meeting Summaries are approved by the Committee they will be made available to the public through the NPS Planning, Environment and Public Comment (PEPC) website: <http://parkplanning.nps.gov/goga>, at Negotiated Rulemaking for Dog Management at GGNRA.

Action: The Committee adopted the March 6, 2006 Meeting Summary and attachments.

Updates on Activities Since Previous Meeting

1. Christine Powell thanked Committee members/alternates who attended the April 4 and April 5 Dog Management Plan/Environmental Impact Statement (EIS) public scoping workshops.

2. Mai-Liis Bartling, GGNRA Deputy Superintendent, advised the Committee that GGNRA will be moving forward with an accelerated resource protection rulemaking as previously discussed with Committee members/alternates. GGNRA does not believe there is a basis for emergency rulemaking. Areas involved are the restored marsh and dune communities, the Wildlife Protection Area [as stated in the Crissy Field Environmental Assessment (EA)] and a 2.2 mile section of Ocean Beach. These areas are outside the parameters and scope for the Committee’s discussions. The accelerated rulemaking process will include notice in the Federal Register and a public comment period. Other areas not being covered in the accelerated resource protection rulemaking will be covered under a separate rulemaking process and the Dog Management Plan EIS. GGNRA will keep the Committee informed about the resource protection rulemaking process. Other points of clarification noted included:

- the accelerated rulemaking timeframe is independent of the Committee’s timing;
- the term “accelerated” is not a legal term, but a way for the NPS to indicate that the rulemaking is a priority for GGNRA;
- at Crissy Field, the proposed rule will allow access to the Wildlife Protection Area for people but not dogs;
- under the existing rules, it is permissible to have dogs under voice control (off-leash) at West Beach at Crissy Field.

3. David Jacob, National Environmental Policy Act (NEPA) Manager, NPS Environmental Quality Division, reported on the NEPA public scoping workshops held

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April 4 (Sausalito) and April 5 (San Francisco). Attendance was approximately 150 people over the two workshops and the public comment period for the scoping phase closes on April 24, 2006. Comments received at the workshops will be entered into the NPS Planning, Environment and Public Comment (PEPC) website (<http://parkplanning.nps.gov/goga> then click EIS/Dog Management Plan for GGNRA) and a content analysis report will be available in May.

4. The facilitation team is working with GGNRA to develop a side-by-side timeline that will provide an overview of the schedules for the concurrent Committee and NEPA processes.

Committee Protocols

The Committee made a series of decisions to modify the April 11, 2006 version of the Draft Proposed Negotiated Rulemaking Committee Protocols. While the revised version of the Protocols should be reviewed for specific changes, the following summarizes the discussion:

- ❖ Section 1b/Alternates: Deletion of second sentence. Agreement on seating of alternates with members during meetings. Agreement on basic approach that members will lead discussions for each member-alternate team, with these exceptions: (1) member and alternate may switch roles, and (2) lead for any discussion may ask that additional perspectives be included.
- ❖ Section 1f/Dismissal from Committee: Correction of bullet. Adoption of language on GGNRA/NPS actions to be taken.
- ❖ Section 2b/Attendance at Meetings: Adoption of language on alternates attending meetings and excessive absences.
- ❖ Sections 2d/Meeting Materials: Adoption of language on distribution of meeting materials.
- ❖ Section 2e/Meeting Summaries: Adoption of language on roles and process for meeting summaries preparation and public availability. Deletion of suggested language regarding posting draft meeting summaries on GGNRA website. Discussion regarding suggested language on video or audio taping meetings, need for taping meetings, access to information/disability considerations, potential costs/issues, and consistent format for documenting Committee's work and decisions. Suggestions for additional language to be developed by facilitation team and brought back to Committee. GGNRA will investigate audio taping of meetings and report back to the Committee. It was agreed that recording by individuals during meetings of the Committee does not pose a problem, but that the written meeting summaries serve as official documentation of the Committee's work and decisions. GGNRA is willing to audio tape meeting summaries if there is a need.

- ❖ Section 2g/Meeting Attendees and Comment: Discussion regarding FACA requirements, existing language and suggestions for additional/modified language to be developed by the facilitation team to address: duration of public comment period, individual time limits for speakers, not allowing time to be shared between individuals, and standard approach for all meetings.
Action item: NPS to provide written clarification on presentation slides in FACA training binder regarding public comment requirements.
- ❖ Section 3d/Balanced Representation: Adoption of language referencing local government involvement on Subcommittees.
- ❖ Section 4b/Consensus: The Committee seeks high-quality consensus for decision making on substantive issues, meaning that all Committee members must either support a decision or be willing to accept it. The Committee agreed that complete consensus is not required for essentially administrative decisions.
- ❖ Section 4c/Absence of Consensus: Adoption of substituting “Absence” for “Lack” in section title.
- ❖ Section 5a/Good Faith: Adoption of requirement for Subcommittee participants to participate in good faith.
- ❖ Section 7a/Statements to the Media: Deletion of first sentence. Substitution of “media” for “press” throughout protocols. Discussion regarding existing and proposed language, impact of protocols on Committee members’/alternates’ ability to speak to the media about other NPS actions and questions by Committee members on how they can talk about the issues. Committee members agree they will not characterize the views or motives of other Committee members in media communications. Suggestions for additional/modified language to be developed by the facilitation team and brought back to the Committee on communicating with the media, importance of not characterizing/attributing others’ viewpoints, and sensitivity to potential impacts on the Committee of statements made to the media.
- ❖ Section 3/Committee Alternates: Roles and Responsibilities: Adoption of suggestion that this section should mirror Section 1b.
- ❖ Good Faith Participation Standards, pages 10-11: Discussion of criteria 6 and issues related to litigation, including requirements from other negotiated rulemaking processes, Committee members’ ability to file litigation related to broader NPS issues, potential impacts of litigation on Committee process and working relationships, and revisiting standards quarterly. Deletion of Criteria #6 on page 11. Deletion of word “truthful” in proposed Criteria #7. GGNRA will evaluate good faith participation on a case-by-case basis; if litigation is filed that involves a Committee member or alternate, GGNRA will report that to the Committee. The Good Faith Standards remain as part of the protocols.

Action item: The Committee's agreements on the protocols will be incorporated into a final version and distributed to the Committee.

GGNRA Sideboards for Negotiation

As requested at the March 6, 2006 meeting, GGNRA updated its website and added a page on current enforcement of dogwalking regulations (Enjoying the Park With Your Dog available at www.nps.gov/goga/pets).

Christine Powell reviewed revisions made to the document National Park Service Parameters and Scope of Negotiated Rulemaking Discussion based on the need for consistency with the Notice of Establishment for the Committee and concerns raised regarding inclusion of GGNRA lands in San Mateo County in the negotiated rulemaking process. She distributed accompanying maps of the areas that are part of the negotiated rulemaking discussions.

Action item: Committee members requested a future discussion of how terms such as "voice control" and "offleash" are being defined by GGNRA.

Presentation on Joint Fact Finding

Sandra Hamilton, Environmental Protection Specialist, NPS Environmental Quality Division, presented information about joint fact finding (JFF) and potential opportunities for funding to use this process. A fact sheet on JFF was distributed to Committee members and alternates. *Action item: Add PowerPoint presentation to PEPC website when available (may be delayed due to need to check with cooperating agencies first).*

Summary of Key Interests and Areas of Agreement from Assessment Report

Due to time constraints, this item was not presented at the meeting and will be carried forward to a future meeting.

Committee Schedule, Logistics, Next Steps

Betsey Cutler, Anne Farrow, Judy Teichman, and Martha Walters volunteered to be part of a small planning group to work with the facilitation team on scheduling and logistics. Potential formation of a Technical Subcommittee will be discussed at the next Committee meeting, scheduled for Monday, May 15, 2006 starting at 3:00 p.m. at the Fort Mason Officers Club. A Committee member expressed concerns about public access and ADA requirements at the Officers Club location and GGNRA will follow up. The facilitation team will send out an updated availability request for potential June meeting options using the Meeting Wizard software; Committee members were asked to reply to these requests promptly and to contact Catherine McCracken with questions.

Public Comment

The following members of the public provided verbal comments to the Committee: Sally Stephens and Sonia Hanson. Topics covered included:

- ❖ Concern expressed that Committee members view public comment portion of the meeting as an “annoyance” and “something to be endured.” Speaker encouraged the Committee to remember the importance of public comment;
- ❖ Questions raised about potential litigation and impact on Committee process and negotiations;
- ❖ Question about real and perceived problems from public perspective if litigation is filed on dogwalking issues;
- ❖ Comment that Committee meetings with start times of 3:00 p.m. are excluding the public from attendance; and
- ❖ Questions about lack of local government representation on Committee and timing of local government involvement on Subcommittees.

The meeting was adjourned at 7:35 p.m.

Copies of written comments submitted to GGNRA at and after the meeting (through May 15, 2006) from Dennis Cahill, Frederic Genter, Lisa Vittori, and an unknown individual are attached.

We hereby certify that, to the best of our knowledge, this meeting summary is accurate and complete.

Greg Bourne, Senior Mediator, Center for Collaborative Policy
J. Michael Harty, Principal, Harty Conflict Consulting & Mediation

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Attachment A

Documents distributed to Committee members and alternates:

- U.S. General Services Administration Office of Governmentwide Policy brochure: *The Federal Advisory Committee Act: An Overview*;
- Meeting agenda (DRAFT April 10, 2006 version);
- Meeting Summary - Negotiated Rulemaking Advisory Committee for Dog Management at Golden Gate National Recreation Area (GGNRA), Meeting #1, Monday, March 6, 2006 (DRAFT April 11, 2006 version);
- Written public comments from March 6, 2006 Negotiated Rulemaking Committee Meeting.
- United States Court of Appeals, Ninth Circuit. *Bicycle Trails Council of Marin v. Babbitt*, 82 F.3d 1445 (9th Cir. 1996).
- Golden Gate National Recreation Area (GGNRA), Negotiated Rulemaking Advisory Committee for Dog Management, Draft Proposed Negotiated Rulemaking Committee Protocols with Attachment: GGNRA Dog Management Negotiation Rulemaking, Good Faith Participation Standards: January 2006 (April 11, 2006 version).
- Copies of PowerPoint slides presented by David Jacob, National Park Service, at March 6, 2006 Meeting of Negotiated Rulemaking Advisory Committee for Dog Management at Golden Gate National Recreation Area (GGNRA) on National Environmental Policy Act (NEPA) and Negotiated Rulemaking processes.
- Copies of posters displayed (without maps) at Golden Gate National Recreation Area Dog Management Plan/EIS (Environmental Impact Statement) Public Scoping Workshops, April 4, 2006 (Bay Model Center, Sausalito, CA) and April 5, 2006 (Fort Mason Officers Club, San Francisco, CA).

- Important National Park Service Websites. Handout listing National Park Service Planning, Environment and Public Comment (PEPC) website and locations of information about the National Environmental Policy Act (NEPA) EIS/Dog Management Plan for GGNRA and Negotiated Rulemaking for Dog Management at GGNRA.
- National Park Service, Parameters and Scope of Negotiated Rulemaking Discussion (showing revisions to March 5, 2006 version).
- Maps: 1) Parameters and Scope of Negotiated Rulemaking, Golden Gate National Recreation Area, San Francisco and San Mateo Counties (dated April 18, 2006) and 2) Parameters and Scope of Negotiated Rulemaking Discussion, Golden Gate National Recreation Area, Marin County (dated April 18, 2006).
- Copy of web page from National Park Service website, Enjoying the Park with Your Dog (Dogwalking in Golden Gate National Recreation Area), from www.nps.gov/goga/pets.
- Information sheet on Joint Fact Finding (from Draft Collaborative Strategy Resource Sheets – October 6, 2004 – Office of Collaborative Action and Dispute Resolution, U.S. Department of the Interior).