

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

Meeting #1
Monday, March 6, 2006
4:00 p.m. – 7:00 p.m.
Landmark Building A, The Conference Center
Lower Fort Mason, San Francisco, CA

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

National Park Service Staff: Mai-Liis Bartling, Michael Edwards, Barbara Goodyear, Daphne Hatch, David Jacob, Paula Lee, James Marks (volunteer), Judy Matthews, Marybeth McFarland, Bill Merkle, Yvette Ruan, Shirwin Smith.

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 45-50 members of the public attended the meeting, and the discussion followed the issues and general timing as presented in the meeting agenda.

Welcome from GGNRA Deputy Superintendent and Introduction of Designated Federal Officer and Committee Members

Mai-Liis Bartling (GGNRA Deputy Superintendent) opened the meeting with a welcome for Committee members and alternates and commended them for their commitment to the negotiated rulemaking process.

Christine Powell, GGNRA's Public Affairs Officer and the Designated Federal Officer (DFO), welcomed Committee members and alternates and provided a brief history of the negotiated rulemaking (NR) process. A Federal Register notice announcing the National Park Service's (NPS's) intention to form a NR Committee was published June 28, 2005 and the Federal Register notices announcing the establishment of the Committee and providing public notice of this first meeting were published February 17, 2006.

Christine Powell provided an overview of Federal Advisory Committee Act (FACA) Committees, the roles and responsibilities of the DFO, Committee members, and

alternates. The Charter provides the framework for the Committee's work, purpose and function, objectives and scope, membership, administration, duration and authority. GGNRA is the sponsor of the NR process and ensures that the relevant regulations of the Negotiated Rulemaking Act, the Federal Advisory Committee Act, and other NPS guidelines and policies are followed in this process. GGNRA is also represented on the Committee by Christine Powell and alternate, Howard Levitt, and they are treated in the same way as other Committee members under the meeting protocols. The DFO has the responsibility to: approve and call meetings, approve agendas, attend all meetings, adjourn meetings whenever it is determined that it is in the public interest to do so and maintain records for public availability.

The role of the Committee members is to represent their respective constituents during the negotiations. This requires keeping constituents informed of the Committee's work, soliciting their input between meetings and bringing that input back to Committee discussions.

The Committee, which is one of 1000 FACA Committees assisting the President and government agencies on various issues, was chartered to assist in the development of a proposed special regulation for dog management at GGNRA, using a facilitated negotiated rulemaking process. The Charter states that the Committee must complete its work within two years.

Review of Facilitator Evaluation

Mike Eng, of the U.S. Institute for Environmental Conflict Resolution, summarized the process for evaluating facilitators for the NR process from the assessment phase of this effort. Based on the concurrence of the Committee with the recommendation to proceed with the facilitation team, Mike Eng introduced the facilitation team (FT) of Michael Harty, Greg Bourne, and Catherine McCracken.

Review Meeting Agenda and Objectives

The Committee supported proceeding according to the proposed agenda: discussion of protocols, applicable regulations, the concurrent NEPA process, NPS sideboards for the Committee's deliberations, and public comment.

Review and Approve Meeting Protocols

The Committee took the following actions regarding the Draft Proposed Negotiated Rulemaking Committee Protocols with Attachment: GGNRA Dog Management Negotiation Rulemaking, Good Faith Participation Standards: December 2005:

- ❖ Wording on page 2 referencing local government representatives on the Committee should be revised. *Decision: language to be modified.*
- ❖ Potential removal/dismissal of a Committee member. *Decision: The FT proposed a modification to indicate that the DFO would bring any potential dismissals to the Committee for discussion. No objections were made to this proposal.*

- ❖ Role(s) of alternates in Committee deliberations. *Decision: Further discussion is needed on this topic.*
- ❖ Written comments submitted to the GGNRA. *Decision: The DFO advised that the comments are part of the public record and suggested that written comments be attached to each meeting summary.*
- ❖ Attendance for Committee representatives and alternates. Issues include tracking attendance, defining “excessive absence,” and room for flexibility in case of last minute events. *Decision: Delete last sentence and re-word to focus on ensuring consistent participation by organizations.*
- ❖ Section 2f regarding public comment procedures at Committee meetings. *Decision: Committee members are in general agreement that reasonable limits on public comment time are appropriate. For this meeting, public comment is limited to two minutes per speaker during the last 20 minutes of the meeting. Speakers should focus on agenda topics and respect the time limit.*
- ❖ Process for resolving other protocol issues. *Decision: The FT will do additional work on the protocols prior to the next meeting and come back to the Committee with proposed revisions.*

Overview of Applicable Statutes and Regulations

Barbara Goodyear, Solicitor, U.S. Department of the Interior, San Francisco Field Office and Paula Lee, Assistant Solicitor, U.S. Department of the Interior, San Francisco Field Office will attend future Committee meetings. Goodyear provided a broad overview of applicable regulations the Committee needs to keep in mind as it undertakes its work. Committee members were referred to the information provided to them on the National Park Service Organic Act, the General Authorities Act, and the GGNRA Establishment Act as well as some court cases. *Action item: Provide copies of the off-trail biking case to Committee members.*

Overview of National Environmental Policy Act (NEPA) Process and Tentative Schedules

David Jacob, NEPA Manager, NPS Environmental Quality Division, presented an overview of the NEPA process which is taking place concurrent with the Negotiated Rulemaking Advisory Committee’s work. This planning process will result in a dog management plan and Environmental Impact Statement (EIS). Information on the April 4, 2006 (Bay Model Visitor Center, Sausalito) and April 5, 2006 (Fort Mason Officers Club, San Francisco) NEPA public workshops was provided to Committee members. The comment period for the public scoping phase of the NEPA process closes on April 24, 2006. Additional information and a way to submit online comments are available through the NPS Planning, Environment and Public Comment (PEPC) website: <http://parkplanning.nps.gov/goga>, then click EIS/Dog Management Plan for GGNRA. *Action item: Add David Jacob’s PowerPoint presentation to GGNRA web site.*

Overview of NPS Sideboards for Committee Deliberations

The DFO reviewed the document National Park Service Parameters and Scope of Negotiated Rulemaking Discussion that had been distributed to the Committee. The sideboards for the NR process defined in the Committee's Charter are described in the document using the following basic structure:

- 1) Areas not open for consideration for dog walking
- 2) Areas open for dogwalking consideration:
 - A. Dogwalking on-leash (where allowed) or no dogs
 - B. Dogwalking per voice control, on-leash or no dogs
- 3) Other issues for consideration
 - A. Commercial Dogwalkers
 - B. Individual Dogwalkers
 - C. Issues occurring in dogwalking areas
- 4) General Parameters

A corrected version of the March 5, 2006 version of the document is attached.

Action Item: Provide maps to support discussions of different areas.

Future Meetings

The FT will work with Committee members on selection of future meeting dates and times, with the possibility of organizing one or more field trips around the GGNRA.

Public Comment

The following members of the public provided verbal comments to the Committee: Sally Stephens, Nancy Stafford, Andrea O'Leary, Mark Maigatter, Lisa Vittori, Florence Sarrett, Stephen Sayad, Avrum Shepard, Sonia Hanson, and Bill Carlin. Topics covered included:

- ❖ Questions about consequences of a Committee member or alternate leaving the Committee and creating a safe environment for negotiations;
- ❖ Question raised about GGNRA's commitment to continuing the current status of dogwalking rules through NR and NEPA processes;
- ❖ Clarification requested on areas "on the table" for negotiations and question about why negotiations are limited to those areas;
- ❖ Question about what constitutes meeting attendance for Committee members;
- ❖ Question about Committee composition not including average GGNRA users and the need for the process to consider these users and their interests;
- ❖ Concern expressed that the Presidio Trust is not involved as a Committee member and hope that Committee's work and results of the NR process are vetted with them;
- ❖ Reference to Committee of maps of areas for dogwalking in the GGNRA 1996 Compendium;
- ❖ Question about procedures for providing comments on agenda items as well as non-agenda items;

- ❖ Clarification sought regarding status of past agreements between NPS and dogwalking groups;
- ❖ Question about if Committee is allowed to recommend statutory changes;
- ❖ Concern raised about potential bias of internal scoping in NEPA process;
- ❖ Question about how 5,000+ comments made five years ago will be used in these concurrent processes;
- ❖ Need to improve sound system for future meetings;
- ❖ Question raised about necessity of special regulation, what will happen if Committee doesn't reach consensus, and why NEPA analysis is necessary;
- ❖ Question raised about the concurrent processes undermining decision of U.S. v. Barley court decision;
- ❖ Question raised if process is compliant with NPS Director's Order 75A;
- ❖ Necessity of this process being accessible and informed by public input and importance of Committee hearing public comment;
- ❖ Comment that GGNRA illegally rescinded 1979 rule;
- ❖ Question about why GGNRA is using Negotiated Rulemaking Advisory Committee instead of adopting 1979 Pet Policy;
- ❖ Objections raised to presentation of historical events, issues, and court cases;
- ❖ Comment raised that mountain bike case presented is not on point to issues being discussed in this process;
- ❖ Request for accurate signage reflecting current status of dogwalking rules;
- ❖ Request that information be posted on the GGNRA web site for public access; and
- ❖ Clarification on Federal Advisory Committee Act (FACA) requirements for public comment at meetings.

The meeting was adjourned at 7:00 p.m.

Copies of written comments submitted to GGNRA at and after the meeting (through April 7, 2006) from Lewis Ellingham, Jacqueline Johnson, Mark Maigatter, A. O'Leary, Claus Schlund, Avrum Shepard, and Rick Thurber 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

Attachment A

Documents distributed to Committee members and alternates in binder, *Negotiated Rulemaking Committee for Dog Management at Golden Gate National Recreation Area*:

- Cover sheet and binder table of contents;
- Meeting agenda;
- List of Committee Members;
- Department of the Interior, National Park Service, Advanced notice of proposed rulemaking, Federal Register notice (January 11, 2002);
- Federal Panel Recommendation to the General Superintendent on Proposed Rulemaking for Pet Management at Golden Gate National Recreation Area (Revised November 7, 2002);
- Department of the Interior, National Park Service, Notice of Intent to Establish a Negotiated Rulemaking Advisory Committee, Federal Register notice (June 28, 2005);
- Draft public mailer informing public that Golden Gate National Recreation Area, Negotiated Rulemaking Committee Established and Concurrent EIS for Dog Management Initiated;
- Department of the Interior, National Park Service, Notice of establishment, Federal Register notice (February 17, 2006);
- Department of the Interior, National Park Service, Notice of meeting, Federal Register notice (February 17, 2006);
- Signed Charter 2006, Negotiated Rulemaking Advisory Committee for Dog Management at Golden Gate National Recreation Area
- Department of the Interior, National Park Service, Notice of Intent to Prepare an Environmental Impact Statement, Federal Register notice (February 22, 2006);
- U.S. Department of the Interior, National Park Service, Dog Management Plan and Environmental Impact Statement, Golden Gate National Recreation Area, Marin, San Francisco and San Mateo Counties, California, Draft Notice of Extension of Scoping Period (signed by Jonathan B. Jarvis, Regional Director, Pacific West Region February 23, 2006);
- Golden Gate National Recreation Area, Dog Management Plan/Environmental Impact Statement, Public Scoping Workshops newsletter (for April 4, 2006 and April 5, 2006 Workshops)
- U.S. Code Collection, Title 5, Part I, Chapter 5, Subchapter III, Sec. 561-570a;
- Federal Advisory Committee Act; 5 U.S.C. app. As Amended;

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- U.S. Code Collection, Title 16, Chapter 1, Subchapter I, Sec. 1 (National Park Service Organic Act), and Title 16, Chapter 1, Subchapter I, Sec. 1a-1 (National Park Service General Authorities Act), and Title 16, Chapter 7, Subchapter II, Sec. 703 (Migratory Bird Treaty Act);
- U.S. Code Collection, Title 16, Chapter 1, Subchapter I, Sec. 3 (National Park Services Organic Act);
- Public Law 92-589, 92 Congress, H.R. 16444, October 27, 1972, An Act To establish the Golden Gate National Recreation Area in the State of California, and for other purposes;
- 36 CFR, Chapter I, Part 1, Sec. 1.1-1.3 and 1.5-1.10 (pages 5, 9, 10, 11) and Chapter I, Part 2, Sec. 2.1-2.2 and 2.13-2.17 and 2.33-2.34 and Sec. 5.3 (pages 17, 18, 22, 23, 27) and Chapter I, Part 5 (pages 40);
- 2001 NPS Management Policies, Chapter 1: The Foundation;
- 2001 NPS Management Policies, Chapter 4: Natural Resource Management;
- 2001 NPS Management Policies, Chapter 8: Use of the Parks;
- United States Department of the Interior, National Park Service, Golden Gate National Recreation Area, Golden Gate National Recreation Area Advisory Commission, Approved Guidelines for a Pet Policy – San Francisco and Marin County (Muir Beach & South) (February 24, 1979);
- United States District Court for the Northern District of California, No. C 00-00877 WHA, Order Vacating Preliminary Injunction and Order to Show Cause (Granting Motion and Application to Vacate) (Page 1-4 of 4, February 13, 2001);
- United States District Court for the Northern District of California, No. CR 04-0408 WHA, Order of Affirmance (Pages 1-2 of 10, June 2, 2005);
- Department of the Interior, National Park Service, Notice of closure, Fort Funston, Federal Register notice (January 4, 2001);
- 36CFR 7.20 (Fire Island National Seashore), 7.48 (Lake Mead National Recreation Area), 7.97 (Golden Gate National Recreation Area).

Additional documents distributed to Committee members and alternates:

- 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: December 2005;
- National Park Service, Parameters and Scope of Negotiated Rulemaking Discussion (March 5, 2006).