

**City of Berkeley  
Watershed Subcommittee  
of the  
Public Works Commission**

**MEETING AGENDA**

**Subject:** Codornices Creek

**Date:** August 8, 2018

**Time:** 5:00 p.m. – 6:00 p.m.

**Location:** Au Coquelet Café & Restaurant, 2000 University Ave, Berkeley, CA 94704

1. Call to Order and Roll Call
2. Comments from the Public (3 minutes each speaker)
3. Discuss/Action:
  - a. Discussion on status of stakeholder meetings concerning Codornices Creek
  - b. Review of Draft Codornices Creek Recommendation
4. Adjournment

**An agenda packet is available for public review at the Engineering Division front desk.**

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**SB 343 Disclaimer:**

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Public Works Department located at the address below.

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**Commission Secretary:**

Nisha Patel, Public Works – Manager of Engineering/City Engineer  
Public Works Department/Engineering Division, 1947 Center Street, 4th Floor,  
Berkeley, CA, 94704, Telephone (510) 981-6406,  
TDD: (510) 981-6347, Email: [NPatel@cityofberkeley.info](mailto:NPatel@cityofberkeley.info)

CONSENT CALENDAR  
July 12, 2018

To: Honorable Mayor and Members of the City Council  
From: Public Works Commission  
Submitted by: Ray Yep, Chair, Public Works Commission  
Nicholas Dominguez, Chairperson, Watershed Subcommittee  
Subject: Codornices Creek Maintenance

RECOMMENDATION

Adopt a Resolution directing staff to include Public Works Commission recommendations detailed below in negotiations of a future maintenance agreement of lower Codornices Creek.

FISCAL IMPACTS OF RECOMMENDATION

Unknown

CURRENT SITUATION AND ITS EFFECTS

Codornices Creek lies at the boundary between Berkeley and Albany. It drains about 1.5 square miles that extends up into the Berkeley Hills, and has a small population of steelhead, an endangered species. Three different projects have been implemented between 2004 and 2010 intended to enhance the creek for flood control and steelhead. Friends of Five Creeks (Friends) has brought a number of concerns about the status and maintenance of the restoration area to our attention. We have investigated those concerns and have developed this recommendation to the council to direct the efforts of City staff.

BACKGROUND

Codornices Creek extends down to the Bay along the Berkeley-Albany border at the edge of UC Berkeley University Village Housing Development. The Creek is unique in that it is the only habitat for steelhead in the Berkeley Watershed.

With the first phase of restoration of the creek in 2004, a Memorandum of Understanding (MOU) was established between the University of California, the City of Albany, and the City of Berkeley to implement the project and the terms and conditions of the permits and the grants. All three institutions were involved in the restoration project, and the MOU was intended to establish the responsibilities of the three partners. The sections of that MOU pertinent to this recommendation concern the responsibilities of creek maintenance and escrow fund disbursement. The maintenance and shared fund responsibilities are summarized as follows:

1) Creek Maintenance. UCB is responsible for removal of debris; periodic clearing of undergrowth; clearance of creek flow obstructions at culverts and bridges, and routine repairs related to flood control.

2) Trail Maintenance. Equally shared by Albany and Berkeley (except for litter removal and emptying of trash cans which is UCB's responsibility).

3) Culverts, Bridges and Street Crossings Maintenance. Berkeley is responsible for the creek west of San Pablo Avenue to the project area.

4) Funding. Each of the partners are responsible for funding their activities. Since grant and permit conditions associated with the project required easements, relocations, soil testing, monitoring and adaptive management, an escrow account was established to cover those costs. The remainder of the account, estimated by the City in 2004 to be \$400,000, was to be available for "maintenance of the Lower Codornices Creek and Site Improvement Project." The City of Albany was to administer this fund and recover at least a portion of the administrative costs.

We are fortunate that the Friends brought this matter to our attention; maintenance had fallen through the cracks in all agencies.

### MAINTENANCE ISSUES

All of the staff at the three partners who developed the restoration project and agreements are no longer working for those organizations. Friends of Five Creeks has identified a number of concerns that they have about the area, including homeless encampments, graffiti, the condition of the trails, removal of trash, maintenance of vegetation including removal of invasive species, maintenance of the creek, transparency to the public, and illegal dumping. The turn over of responsible staff at the three agencies has resulted in the lapsing of contracts, the end to public meetings about maintenance, and the lack of an administrative mechanism to identify and carry out the maintenance needs. Some of the concerns raised by Friends such as managing homeless are outside the scope of the original agreements. Others are controlled by grant conditions and regulations. Nevertheless, we have endeavored to formulate a recommendation on each of those issues.

### HOMELESS ENCAMPMENTS

After the Friends identified their concerns, the University installed a heavy-duty fence along the western boundary of the project site, adjacent to the railroad right of way. The Creek has been identified as a trash hot spot, and thus the partners are all liable for meeting the regulatory requirements to prevent trash and human waste from reaching the creek. **We recommend that the City Department of Public Works maintain a vigilant approach to prevent camping along the creek and to clean up any waste left behind.**

### GRAFFITI

Graffiti removal was identified as a bona-fide trail maintenance activity in Attachment 7 to the MOU and should be undertaken by Albany and Berkeley on their respective trails. **We recommend that the Department heads of the Public Works and Parks and Waterfront Departments agree about who is responsible for removing graffiti, and establish a tracking mechanism to document removal.**

## TRAIL MAINTENANCE

Each city is responsible for maintaining the trail within their boundaries. Currently the trail is passable, but removal of graffiti and trimming of vegetation that hangs over the trail remain issues.

## TRASH

All three of the partners are required to comply with the regional storm water program that calls for programs that prevent trash from reaching waters of the state. Since Codornices Creek has been identified as a trash hot-spot, the partners could be subject to fines if their programs are ineffective. The MOU identifies the University of California as having responsibility for removal of trash; however, this does not eliminate the potential liability for the City of Berkeley.

The Friends have identified the presence of homeless encampments, the number, size and location of trash cans, and the frequency with which the trash cans are emptied as issues that lead to trash in the Creek. [I don't really want to venture an opinion about whether there should be more trash cans, bigger trash cans, or more frequent pick-ups. Trash handling practices throughout Berkeley could be improved; the problems at this site are not unique.]

## VEGETATION MANAGEMENT

The endangered species consultation for the project (National Marine Fisheries Biological Opinion, File Number 15422SWR04SR9261:ES, July 15, 2004) approved the project because it increased the sinuosity of the stream and provided for in-channel habitat for steelhead. That approval was predicated on a design and planting plan that provided for a dense canopy of vegetation. Heavy riparian vegetation serves three biological functions: 1) it cools the water for steelhead needs; 2) it prevents growth of watercress and cattails, which alter habitat and trap sediment, altering the deep pools necessary for steelhead rearing in the lower creek; and 3) heavy riparian vegetation limits predation by common species that inhabit the Bay, in particular egrets.

Not everyone appreciates a dense canopy of vegetation, and willows in particular are controversial enough that there is a literature about their use in urban stream restoration. The amount of planting, and the species selected for planting was at issue in the case of Codornices Creek restoration. As late as 2012, there was still discussion

of the density and types of plant material that should be planted. It was not until the monitoring report of 2016 that a satisfactory cover was reported.

While the riparian corridor must remain sufficiently dense to shade the stream, that need not prevent maintenance of vegetation. The 2016 monitoring report, "Codornices Creek Restoration Project 2016 Monitoring Report", recommended (page 7) removal of "acacia seedlings, bristly ox-tongue, fennel, pampas grass, curly dock, Himalyan blackberry, bindweed, ivy, ripgut brome, wild oat grass and nasturtiums." It also recommended that managers "selectively prune willows and other vegetation that are growing into the multi-use path."

In the case of a stream restoration project, it is advisable to consult with the Regional Water Quality Control Board. They have provided guidance that allows moving grass if clippings are removed and disposed of off-site, and removing properly identified non-native invasive species if done by hand. Such removal should be done pursuant to a program that the Regional Board supports, and with guidance by a qualified botanist and documentation such as a map.

**We recommend that the three agencies develop a vegetation management plan in consultation with the Regional Water Quality Control Board. That plan should implement the recommendations of the 2016 monitoring report and is a bona-fide trail maintenance activity under the MOU.**

### STREAM MAINTENANCE

The project's hydrological design was intended to provide improved flood control and a more stable channel. The project's permits were conditioned by requiring 5 years of monitoring, and adaptive management (any necessary modifications) if the project did not meet its objectives. Monitoring appears to show the project generally meets its objectives, although there has been some channel incision. (An independent analysis of the Codornices project was completed by graduate students in Matt Kondolf's course LA227, Restoration of Rivers and Streams. The report, "Post Project Performance Assessment of a multi-phase Urban Restoration project on Lower Codornices Creek ", by Mia Docto, Johanna Hoffman, and Scott Walls, is available on the Friends web site.) Another 230 foot segment of Codornices in the vicinity of Kains is currently proposed for restoration. In the long term, rising sea levels will require consideration of the culverts under I-80, which presently control the hydrology.

The University of California agreed to take on responsibility for maintenance of the stream channel. While the channel has mildly incised, there are no current plants to further modify it through this area. It performed as expected during recent higher flow events, and stream modification is an arduous effort. We render no recommendations on stream maintenance at this time.

## PUBLIC OUTREACH AND TRANSPARENCY

The MOU for project implementation includes a provision in Section 5(f) for an annual meeting to discuss estimated maintenance activities for the upcoming year. That meeting is to be held by January 31 of each year. Section 5(l) includes a provision for an annual report, to be prepared within 45 days of the end of each Fiscal year. Neither the meetings nor the annual reports have been executed as required. **We recommend that both be re-instituted, and that the results be discussed in a public meeting. Since the MOU recommends that volunteers be involved in maintenance where appropriate, such a practice provides an opportunity to organize such volunteer efforts.**

## ILLEGAL DUMPING

Friends have expressed concerns that illegal dumping occurs at or near the creek because dead end streets allow such activities. This falls outside of the scope of the restoration project, but such activities pose liabilities for the City, which is responsible for clean-up of illegal dumping on City property, and liable if trash reaches the creek.

**We recommend that the Public Works Department promptly remove any illegally dumped material and establish a tracking mechanism to document removal. We further recommend that the Department evaluate installing bollards and/or cameras to reduce the likelihood of illegal dumping.**

## ENVIRONMENTAL SUSTAINABILITY

### ALTERNATIVE ACTIONS CONSIDERED

No action - continuing to avoid maintenance work on the creek will lead to further litter, encampments, invasive plant overgrowth, and lack of use by residents. Failure to maintain the channel will induce flooding along the waterway.

### CITY MANAGER

*The City Manager concurs with the content and recommendations of the Commission's Report.*

### CONTACT PERSON

First Name, Last Name, (Temporary) Secretary for Public Works Commission, (510) 981-xxxx

Attachments:  
1: Resolution

RESOLUTION NO. ##,###N.S.

Codornices Creek Maintenance

WHEREAS, the 2011 Watershed Master Plan requires (Whereas' are necessary when an explanation or legislative history is required); and

WHEREAS, (Insert Additional 'Whereas Clauses' as needed); and

WHEREAS, enter text here; and

WHEREAS, enter text here; and

WHEREAS, (The last "Whereas" paragraph should contain a period (.) .

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that (Action to be taken) - ends in a period (.) .

BE IT FURTHER RESOLVED that (for further action if needed; if not delete) - ends in a period (.) .

Exhibits **[Delete if there are NO exhibits]**

A: Title of the Exhibit

B: Title of the Exhibit

[http://www.fivecreeks.org/background/Stream\\_Maintenance\\_Enhancement\\_Fact\\_Sheet\\_Final.pdf](http://www.fivecreeks.org/background/Stream_Maintenance_Enhancement_Fact_Sheet_Final.pdf)