



**WESTERN RIVERSIDE COUNTY
REGIONAL CONSERVATION AUTHORITY**

www.wrc-rca.org

MINUTES

Monday, December 3, 2007

1. CALL TO ORDER

The meeting of the Western Riverside County Regional Conservation Authority Board of Directors was called to order by Chairman Jeff Stone at 1:16 p.m. in the Board Room of the County Administrative Center, 4080 Lemon Street, First Floor, Riverside, California, 92501.

2. ROLL CALL

Board Members/Alternates Present

Marion Ashley
Bob Buster
Maryann Edwards
Frank Hall
Jim Hyatt
Robin Lowe
John Machisic
Eugene Montanez
Jeff Stone
Gary Thomasian
Roy Wilson
Mark Yarbrough
John Zaitz

Board Members Absent

Bill Batey
Dom Betro
Larry Dressel
Robert Schiffner
Dale Stubblefield
Roy Wilson

3. BOARD MEMBER ANNOUNCEMENTS

There were no Board Member announcements.

4. ADDITIONS/REVISIONS

There were no additions/revisions.

5. PUBLIC COMMENTS

6. APPROVAL OF MINUTES

M/S/C (MONTANEZ/EDWARDS) to approved November 5, 2007 minutes of the RCA Board meeting.

7. CONSENT CALENDAR

A request was made to pull Agenda Item No. 7.1, *Professional Services Agreement Between the Western Riverside County Regional Conservation Authority and Thomas B. Mullen for Acquisition of Funding and Other Special Projects.*

M/S/C (LOWE/ASHLEY) to approve the following Consent Calendar items:

7.2 MOU BETWEEN THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY AND THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS FOR THE TRANSFER OF TUMF FUNDS FOR USE UNDER THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN

To approve the MOU between RCA and WRCOG regarding the Transfer of TUMF Funds.

7.3 AUTHORIZATION TO PURCHASE AN APPROXIMATELY 66-ACRE PROPERTY FROM THE CITY OF RIVERSIDE

To authorize:

- 1) The acquisition of approximately 66 acres from the City of Riverside, as shown on the attached exhibit;
- 2) The use of TUMF funds, dedicated to the MSHCP, and RCA MSHCP funds to pay for the purchase;
- 3) The Executive Director or his designee to execute escrow documents, including the certificate of acceptance;
- 4) Approval of the budget adjustment for fiscal year 2008;
- 5) Staff to finalize the purchase and sale agreement, subject to Legal Counsel's review and approval; and
- 6) The Chairman of the Board of Directors to execute the purchase and sale agreement.

7.4. INTRODUCTION OF RESOLUTION NO. 07-11, “RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY AMENDING THE AUTHORITY’S BYLAWS”

To direct staff to place draft Resolution No. 07-11, which includes the appointment procedures for Board of Supervisors alternates, on the RCA Board’s January 7, 2008 agenda for approval.

7.5 DELEGATION OF AUTHORITY TO APPROVE THE FISCAL YEAR 2007 FINANCIAL STATEMENTS AND INDEPENDENT AUDITOR’S REPORT

- 1) Delegate the authority to approve the Fiscal Year 2007 Financial Statements and Independent Auditor’s Report to the RCA Executive Committee; and
- 2) Direct staff to agendize this matter for ratification at the January 7, 2008 meeting of the RCA Board of Directors.

7.1 PROFESSIONAL SERVICES AGREEMENT BETWEEN THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY AND THOMAS B. MULLEN FOR ACQUISITION OF FUNDING AND OTHER SPECIAL PROJECTS

At this time, Chairman Stone opened the item for public comments.

- A. Robert Mabee, 3086 Miguel Street, Riverside, 92506 spoke about violations of State Environmental Act, fraud, misuse of County funds and violation of federal statutes while Tom Mullen was a County supervisor. He then submitted copies of documents supporting his allegations: 1) A complaint to the District Attorney; 2) County road easement; 3) County Ordinance regarding work on a public road; 4) Contract in the amount \$169,00 to alter levees; 5) Notice of Completion; 6) Before and after aerial photo showing encroachment after work was completed; 7) Report and letter from Supervisor Norton Younglove voicing his concerns and that he would be willing to testify on his behalf; 8) Letter from the Corps of Engineers that they did not issue a permit on the project; 9) Letter from the Road Department indicating that there was no permit on file; and, 10) Letter to the Road Commissioner that they should have removed the encroachments. He said that these documents were sent to Senator Bob Dutton’s office and they advised him to send them to State Attorney General’s Office, of which he received notification that it is currently being reviewed. He has also submitted it to the Federal Bureau of Investigation. He urged the RCA Board not to approve Tom Mullen’s contract until such time as the State Attorney’s Office and the FBI make a determination. He questioned Tom Mullen’s qualification for the contract. (Based on documentation submitted by Mr. Mabee, his issues related to an easement in Bautista Canyon

RCA BOARD OF DIRECTORS AGENDA

Page 4 of 9

December 3, 2007

Road granted by the Flood Control District to the County of Riverside in 1988 which has affected access to his property.)

Chairman Stone reminded Mr. Mabee that this item is regarding a proposed agreement with Tom Mullen for consultation services. His comments referred to issues that occurred while Tom Mullen was a member of the Board of Supervisors, which is not germane to the agenda item that is before the RCA.

Steve DeBaun, Legal Counsel, informed Mr. Mabee that the issues that he raised were not within the subject matter jurisdiction of the RCA and not within the confines of this agenda item. In addition, each speaker is limited to speak three minutes or less and that he has gone over the three-minute time limitation. The RCA Board has already received his testimony opposing approval of the contract. However, the other issues that he raised are not relative to the agenda item or the agency.

With no other public comments, Chairman Stone closed the item for public comments and opened the floor for Board Member discussion.

Bob Buster asked how the proposed rate fit within a broadband of cost for lobbyists. He said that if this was full time annual job at 2080 hours, it would amount to \$390,000/year which is higher than the County's Chief Executive Officer's salary. The RCA Board should have been provided with a broader base of information to justify the proposed rate.

Joe Richards stated that this item was discussed at the Executive Committee meeting and because of Tom Mullen's connections in Washington, D.C., and Sacramento, coupled with his ability to open doors with respect to securing funding, makes it a worthwhile contract. Working with the RCA lobbyist, Tom Mullen will be developing a program in order to secure funds. As requested by the Executive Committee, periodic reports will be provided.

Jim Hyatt said that the provision in the contract under *Sub Section 3.5.1 Termination of Agreement*, which provides termination of the contract at least seven days written termination notice, gives him a level of comfort.

Bob Buster suggested that the contract be restructured as an incentive-based contract so by offering a monthly stipend for the initial month and based on results for the remaining months. He questioned the length of the contract and proposed a six-month contract. At six months, the contract term and rate would be re-evaluated.

Mark Yarbrough stated that he is normally critical of consultant contracts especially relating to cost, coming from a city in a verge of bankruptcy ten years ago but with this contract, the agency will be receiving what it is paying for. He cannot think of anybody who is committed to the County and this agency than Tom Mullen. He believes that a

RCA BOARD OF DIRECTORS AGENDA

Page 5 of 9

December 3, 2007

year is sufficient. The agency is contracting with a “top of the line” person who will produce results, which is worth the investment.

Chairman Stone stated that Tom Mullen has done an outstanding job as an architect of the MSHCP. He said that Bob Buster has brought up the point regarding comparison of rates showing this as a lucrative contract and it is receiving significant funds of the agency to purchase land and acquire the habitat that it needs. He proposed making the contract based on performance, and at the end of six months, the RCA Board review the results and re-assess the contract. He said that no one is questioning the consultant’s qualification.

Frank Hall said that he sees no reason not to support the recommendation of staff and the Executive Committee. The contract has a clause to cancel the contract in seven days if progress is not being made.

Jim Hyatt indicated his support for a six-month contract and added that a specified reporting requirement should have been included in the report and in the contract to clear some of the questions raised here today.

Maryann Edwards said that she has no doubt that Tom Mullen will perform satisfactory and should have no problems with the six month timeframe for reassessment. Even if RCA does not see a fiscal return on its investment within the first six months, regular reports will show the scope and the breadth of the program that is being established.

Gary Thomasian stated that as a member of the Executive Committee, he raised some of the same questions being raised here. At the meeting, Tom Mullen reviewed his experience and knowledge while a member of the Board of Supervisors and as the RCA Executive Director. He stressed the importance of obtaining significant funding for the Plan. He is convinced that the agency is getting what it is paying for. The Executive Committee directed that a status report be provided every three months in order to be kept informed. If during that time they are not satisfied with the results, the contract could be reevaluated. The RCA Board should keep in mind that federal funding is very much a part of creating a new program and that federal funds have already been earmarked for the next year. So, the RCA Board has to look a year beyond next for a legitimate outcome.

Marion Ashley stated RCA would be paying as much or more to a consultant who is as good as Tom Mullen and is knowledgeable of the Plan.

M/S (HALL/MACHISIC) to approve a one-year Professional Services Agreement.

Ayes: Ashley, Hall, Hyatt, Lowe, Machisic, Yarbrough

Nays: Buster, Edwards, Montanez, Thomasian, Stone, Zaitz

RCA BOARD OF DIRECTORS AGENDA

Page 6 of 9

December 3, 2007

Robin Lowe iterated the need to move the contract as the agency is in the process of working with Washington on some major programs which needs to continue. Tom Mullen has the good of this agency and the County at heart and he has agreed to provide periodic updates. She requested that the recommendation include a determination on the contract by the Executive Committee in 120 days, rather than waiting until six months, in order to continue negotiations with conservancy agencies and the federal government.

Bob Buster mentioned a number of major factors in the next year, which included results of the Rand Study, scheduled payments for acquired properties, and moving forward on acquisitions to take advantage of good opportunities due to the current economic situation. Within three months, Tom Mullen, the Executive Committee and RCA staff could come up with strategies to meet those factors and where RCA needs to go in the next year.

Frank Hall reiterated that he was comfortable with the one year contract. He advised that Seven Oaks Dam and the Prado Dam projects would likely not be completed if George Osborn, who had been a Chief Flood Control Engineer and retired Director of the Environmental Management Agency, was not hired as a consultant to secure funds for the projects. Having an individual with the background and knowledge to push for the projects plays a significant role in achieving funds.

M/S/C (BUSTER/ZAITZ):

- 1) To approve a six-month Professional Services Agreement with Tom Mullen;***
- 2) That the consultant provide monthly reports to the RCA Board; and***
- 3) That the Executive Committee bring back a recommendation on Tom Mullen's Professional Services Agreement to the RCA Board in 120 days.***

Nay: Yarbrough

DISCUSSION ITEMS

8.1 ELECTION OF OFFICERS

Eugene Montanez and John Tavaglione were nominated and unanimously elected as RCA's Chairman and Vice Chairman for 2008, respectively.

8.2 2007 CHAIRMAN RECOGNITION

On behalf of the RCA Board Members and staff, incoming Chairman Montanez presented Chairman Stone with a token of their appreciation, bronze sculpture of a gnatcatcher, for his leadership.

Chairman Stone thanked the RCA Board Members and staff. He wished everyone a happy healthy New Year and wished a change in direction for the economy in order for RCA to fulfill its obligation to purchase 158,000 acres for habitat and fast track infrastructure.

9. EXECUTIVE DIRECTOR'S REPORT

9.1 ROUGH STEP STATUS

Joe Richards stated that this item is based upon Board Members' request to review the rough step process.

It was determined to continue this item to January 7, 2008 meeting due to time constraints and to allow more Board Members to be in attendance.

10. LAND ACQUISITION UPDATE

Ken Graff, Director of Land Acquisition, reported that since its last meeting, one property closed escrow, which brings the total acreage acquired at 39,762 acres.

11. ITEMS FOR NEXT MEETING

Bob Buster requested that a staff report outlining the parameters, obstacles, and opportunities, in general terms, of a potential merger of the RCA and RCHCA, as well as the timeline for such a merger be presented at the next Board meeting so that member agencies can begin discussion on advantages, disadvantages, and potential problems with combining the two agencies.

Chairman Stone adjourned the meeting to Closed Session. Agenda Item No. 12.4, *Conference with Legal Counsel – Anticipated Litigation*, was pulled from the Closed Session agenda.

At this time, Marion Ashley left the meeting.

12. CLOSED SESSION:

A. With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.8:

**Conference with Real Property Negotiator
Pursuant to Government Code Section 54956.8**

Chairman Stone announced abstention from discussion and action on Agenda Item 12.1, due to possible conflict of interest.

12.1 Property: Assessor's Parcel Nos. 963-060-010, 963-060-011, 963-060-012

Negotiating Parties

Agency Negotiator: Director of Land Acquisition and Property Mgt. or Designee

Property Agent: Benton 36/Won Yoo

Under Negotiation: Price/Terms

12.2 Property: Assessor's Parcel Nos. 470-100-001, 470-110-002

Negotiating Parties

Agency Negotiator: Director of Land Acquisition and Property Mgt. or Designee

Property Agent: Cordes, Evelyn and Robert/David Dukes

Under Negotiation: Price/Terms

Agenda Item 12.3 was rescheduled to the January 7, 2008 meeting due to lack of a quorum.

12.3 Property: Assessor's Parcel No. 900-070-001

Negotiating Parties

Agency Negotiator: Director of Land Acquisition and Property Mgt. or Designee

Property Agent: Winchester 700/K. Erik Friess

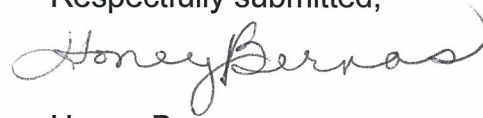
Under Negotiation: Price/Terms

At 2:19 p.m., Chairman Stone reconvened the meeting. There were no announcements.

13. ADJOURNMENT

With no other items to be considered, Chairman Stone adjourned the meeting. The next meeting of the Western Riverside County Regional Conservation Authority Board of Directors is scheduled to be held on Monday, January 7, 2008, at 1:00 p.m. in the Board Room of the County Administrative Center, First Floor, 4080 Lemon Street, Riverside, California.

Respectfully submitted,

A handwritten signature in cursive script that reads "Honey Bernas". The signature is written in black ink and is positioned above the printed name and title.

Honey Bernas
Clerk of the Board