



EXECUTIVE COMMITTEE MINUTES

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1.

CALL TO ORDER

The meeting of the Western Riverside County Regional Conservation Authority Executive Committee was called to order by Vice-Chairman Eugene Montanez at 12:01 p.m., Wednesday, August 19, 2015, at the RCA Conference Room, 3403 Tenth Street, Suite 320, Riverside, California, 92501.

2.

ROLL CALL

COMMITTEE MEMBERS PRESENT	COMMITTEE MEMBERS ABSENT
Eugene Montanez, Vice Chairman – City of Corona Scott Miller – City of San Jacinto Natasha Johnson - City of Lake Elsinore* Maryann Edwards - City of Temecula * Ben Benoit – City of Wildomar Ella Zanowic – County of Riverside District IV <i>*Arrived after start of the meeting</i>	John Tavaglione, Chairman – County of Riverside District II

3.

PUBLIC COMMENTS

There were no public comments.

4.

COMMITTEE MEMBER ANNOUNCEMENTS

There were no committee member announcements.

5.

ADDITIONS/REVISIONS

There were no additions or revisions to the agenda.

6. APPROVAL OF MINUTES – April 15, 2015

M/S/C (MILLER/ZANOWIC) to approve the minutes of the April 15, 2015 meeting of the Executive Committee as submitted.

(4 Ayes, 0 Nays, Abstain 0)

7. WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP) LOCAL DEVELOPMENT MITIGATION FEE (LDMF) COLLECTION AND CIVIC/INFRASTRUCTURE CONTRIBUTION REPORTS FOR MAY, JUNE AND JULY 2015

Honey Bernas, Director of Administrative Services presented the LDMF collection and civic/infrastructure contribution reports for May, June and July 2015. Regional Conservation Agency received \$3 million for MSHCP fees for 1,272 residential units and 96.4 commercial acres. The City of Murrieta contributed \$95,037 for two infrastructure projects.

Total mitigation fees for the year were \$9.4 million with an RCA budget of \$8.3 million. Last fiscal year it was reported that \$9.9 million was received, which reflected a 5% decrease over the prior year. Fiscal year 2014 included a large industrial project in the City of Moreno Valley for \$2.2 million. Fiscal year 2016 is budgeted at \$9.3 million.

Exemptions/Fee Credits were reported at \$437,988 for 226 units, which included 157 in the City of Lake Elsinore, 29 in the City of Temecula and 40 in the County of Riverside.

M/S/C (ZANOWIC/MILLER) that the RCA Executive Committee:

- 1) Recommend that that RCA Board of Directors receive and file the Western Riverside County MSHCP LDMF Collection and Civic/Infrastructure Contribution Reports for May, June and July 2015; and**
- 2) Authorized staff to agendize this matter for the September 14, 2015 meeting of the RCA Board of Directors.**

(4 Ayes, 0 Nays, Abstain 0)

8. FISCAL YEAR 2015 PRELIMINARY FOURTH QUARTER FINANCIAL REPORT (UNAUDITED)

Honey Bernas, Director of Administrative Services reported that auditors have completed their preliminary work and will return on September 21 for the audit. No material changes are anticipated to the reports.

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Staff anticipates the financial statements will be presented to the Executive Committee in November 2015 and to the RCA Board in December 2015.

It was further reported that as of June 30, 2015, RCA's cash balance was \$30.5 million, which represents a \$2.1 million increase from last year. Cash receipts were reported at \$20.9 million, which includes \$9.3 million in mitigation fees, \$3.6 million for infrastructure and PSEs, \$3 million in Measure A funds, \$2.8 million in federal and state funding, \$1.3 million in tipping fees, \$500 thousand in TUMF fees, and \$500 thousand in other miscellaneous revenue.

Cash disbursements were reported at \$18.8 million, which included \$12.8 million for capital acquisitions, \$4.2 million for general expenditures, and \$1.8 million in salaries and benefits. Regional Conservation Authority's cash balance as of August 13, 2015 was reported at \$32.9 million, with an additional \$3.8 million set aside for the endowment.

In Operations, revenue was reported at \$2.6 million which exceeded expenditures of \$369 thousand by \$2.2 million. The excess revenue is attributed to two PSEs from Southern California Edison for the Lakeview Substation and the Valley Ivyglen projects.

In Management and Monitoring, revenue was reported at \$3.5 million which exceeded expenditures of \$2.3 million by \$1.2 million. This was attributed to an 21% increase in tipping fees over prior year.

Vice-Chairman Montanez asked why tipping fees were higher. Other Executive Committee members speculated that perhaps outside county waste might be hauled in, or with development on the rise another contributing factor may be construction waste.

In Land Acquisition, revenue exceeded expenditures. Revenue was reported at \$16.7 million with expenditures of \$16.4 million. Total mitigation fees were reported at \$9.4 million. The highest contributors were the County of Riverside at \$1.5 million, City of Eastvale at \$1.2 million, City of Menifee at \$855 thousand, and City of Jurupa Valley at \$853 thousand. During the year, RCA acquired 20 properties and two conservation easements adding 1,109 acres to the reserve. There were two conservation easements with a value of \$82 thousand, totaling four acres. Also reported were two land donations with a value of \$246 thousand totaling 123 acres, and eight federal and state funded properties with a combined value of \$2.7 million totaling 471 acres. One acquisition was funded by \$3 million in Measure A funds and 73 acres, nine properties were funded by RCA at \$6.9 million totaling 438 acres. It's all good news to report this year!

It was further reported by Honey that at year end, the general fund balance was \$17.4 million and the capital project fund balance was \$12.7 million.

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Several Executive Committee members complimented Honey and staff on the good work performed.

Board Member Miller commented on the \$2 million reported in the Press Enterprise and asked if it was the \$2 million RCA received last year. It was answered by legal counsel, Michelle Quелlette, Best Best & Krieger, that it was Section 6 funds.

M/S/C (BENOIT/MILLER) that the RCA Executive Committee:

- 1) **Recommend that RCA Board of Directors receive and file the Fiscal Year 2015 Fourth Quarter Financial Report; and**
- 2) **Authorize staff to agendize this matter for the September 14, 2015 meeting of the RCA Board of Directors.**

(6 Ayes, 0 Nays, Abstain 0)

Board Member Johnson arrived during staff presentation (12:07p.m.)

Board Member Edwards arrived during staff presentation (12:09p.m.)

9. RESOLUTION NO. 2015-007, RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY REVISING ITS FEE CREDIT AND WAIVER POLICY SUPERSEDING AND REPLACING RESOLUTION NO. 05-05.

Honey Bernas, Director of Administrative Services reported that Board directed staff to draft a policy concerning MSHCP fee credits and send the draft policy to member agencies for review and comment. Staff has drafted a policy for the Executive Committee's review and approval. It was reported that staff deems it important for fee credits to be in exchange for land that contributes to the reserve assembly.

Honey further reported that the policy before committee lays out the criteria for fee credits, the review standards, decision, appeal and reporting process. The review standards will ensure that the land contributes to the reserve assembly, taking into consideration the overall revenue requirements of the RCA, whether the land can be managed, rough step, and any other relevant information that Executive Director deems appropriate. The amount of the fee credit will be equal to the appraised value less RCA's appraisal cost.

Vice-Chairman Montanez asked how this policy different from what the current policy. . Honey Bernas responded that under the current policy, RCA does not have any approval authority. Member Agencies can ask RCA for review, but they are not required to. Sometimes fee credits are given in exchange for land that does not contribute toward reserve assembly. This policy gives the Executive Director authority to approve, giving 30 days to review and either approve the policy, approve it with conditions, or deny it. In the event of a denial there will be an appeal process where they can appeal

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to the Executive Committee. The Executive Committee will make their decision then forward recommendation to the RCA Board for consideration and final approval.

Board Member Edwards asked if the Board is in essence giving itself approval authority and asked if RCA can do that. Honey answered to the affirmative. Steve DeBaun, RCA legal counsel, stated that the agency is the administrator of the program, so it is his belief they can give themselves approval authority. He further stated that it's a JPA, and RCA is the administrator.

Board Member Edwards further asked if there is a cost to appeal and can it only be a Board Member that can appeal and/or an applicant too. Honey answered that there is no cost to appeal and that a Board Member, member agency or applicant can appeal. Honey added that the only recoverable amount is RCA's cost for the appraisal, estimated at approximately \$5 thousand per appraisal. The amount of the fee credit will be reduced by the cost of the appraisal.

Vice-Chairman Montanez commented that it makes sense, and there might be a lot of land people want to give RCA, but RCA may not want or need it. Honey explained that they might want to get a \$1 million fee credit for land that is only appraised at \$350 thousand. Steve DeBaun commented that the advantage, in his opinion, is to have this discussion upfront rather than two to four years later when developers are gone. Board Member Edwards added that there are advantages to have a policy to point to.

Honey Bernas added that the recommendation is to have the draft policy sent to member agencies for review and comment so that any issues or concerns can be brought back to the Executive Committee for discussion.

Board Member Johnson asked why the policy did not get approved prior. Honey answered that prior Board Members did not want to give up their approval authority. Steve DeBaun commented that the first attempt for this policy was in the early years of the agency and many members did not understand the policy, and the agency did not have a track record.

Michelle Ouellette commented that there had not been issues with fee credits that we are seeing now, after all these years. We need to address these issues either this way or discuss another way to solve them.

Executive Committee Member Benoit asked that staff provide generic examples when soliciting comments from member agencies. Honey stated that she would provide a generic example. The example would be that the fee credit needs to be in exchange for land that contributes to reserve assembly. Often developers want fee credit for land they can't develop. Fee credit should not be given for undevelopable land.

Michelle Ouellette stated that the key is with the examples member agencies are giving fee credits, because the member agencies have deemed it so and the RCA does not

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have input on it and yet RCA is supposed to be buying certain amount of acreage so that we don't have to be imposing these fees anymore and this undercuts the ability when we get land that does not help us or that RCA does not want.

Board Member Edwards voiced concern what if every member agency gave credit for everything with no policy in place. Honey stated there would be no revenue, yet RCA still has to operate. When there is a fee credit given for land that does not contribute to reserve assembly, it causes issues for the RCA and the member agency. The member agency expects RCA to take ownership and manage the land, yet RCA does not benefit from owning the land. It costs RCA money. It would benefit the member agencies and RCA if fee credits were worked out prior to credits being issued rather than after the fact.

Board Member Edwards commented it's a lack of information on the member agencies part. Like RCA, WRCOG administers a program, and they have approval authority over funding.

Board Member Benoit commented that the City of Wildomar is going to consider the exemption process next month. He stated that he wants to know about exemptions ahead of time. Exemptions are happening and don't get checked until the third or fourth year of the audit. If the city exempts a project, unless someone is going into the city books a year later at an audit, it's never known until much later.

M/S/C (EDWARDS/JOHNSON) that the RCA Executive Committee:

- 1) **Review draft Resolution No. 2015-007 and approve in concept or provide staff direction concerning proposed changes;**
- 2) **Direct staff to send the draft policy to the member agencies for review and comment; and**
- 3) **Direct staff to report back to the RCA Executive Committee at the October 21, 2015 meeting.**

(6 Ayes, 0 Nays, Abstain 0)

10. **RESOLUTION NO. 2015-009 RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY AMENDING THE ELECTIONS SECTION OF ITS BYLAWS TO ELECT A CHAIRPERSON AND A VICE-CHAIRPERSON EVERY SECOND YEAR AND AMENDMENT NO. 6 TO THE JOINT EXERCISE OF POWERS AGREEMENT CREATING THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY**

Honey Bernas stated that it was suggested that due to the complexities of the MSHCP and implementation, that it may benefit the RCA to extend the terms of the officers from

one to two years if the officers were willing to serve longer. The pros and cons of extending the terms were discussed.

Due to the fact that extending the terms would require a four year commitment, no action was taken on this item.

Vice Chairman Montanez suggested that Charles Landry and Chairman Tavaglione have a discussion at Board without a voting topic during the Executive Director's report. The Vice Chairman noted no motion taken on this item referred to the Board of Directors meeting for Director Report discussion only.

The RCA Executive Committee did not take a motion on this item for the following:

- 1) **Recommend that the RCA Board of Directors consider introducing Resolution No. 2015-009, *RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY AMENDING THE ELECTIONS SECTION OF ITS BYLAWS TO ELECT A CHAIRPERSON AND A VICE-CHAIRPERSON EVERY SECOND YEAR*; and**
- 2) **Recommend that the RCA Board of Directors approve, authorize the Chairman to execute, and direct staff to send Amendment No. 6 to the Joint Exercise of Powers Agreement Creating the Western Riverside County Regional Conservation Authority to Member Agencies requesting that they execute and return no later than November 2, 2015; and**
- 3) **Authorize staff to agendize this matter for the September 14, 2015 meeting of the RCA Board of Directors.**

(0 Ayes, 0 Nays, Abstain 0)

11. FISCAL YEAR 2015 FOURTH QUARTER CONSULTANT REPORTS

Laurie Correa, Director of Reserve Management and Monitoring gave a summary on each consultant report:

Dudek: Provides biological reviews, analysis and submittals related to Joint Project Reviews (JPR's) submitted by Permittees. During the reporting period, they performed several reviews. Dudek provided permittee training and consultant training during this quarter. They coordinated and attended monthly meetings with U.S. Fish and Wildlife Service and California Department of Fish and Wildlife. They provided support and coordination related to pending and existing Participating Special Entity applications. They have four projects pending, several are extremely large.

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Geographics: Developed final art, printed 1,800 copies and distributed 700 copies of the Summer Newsletter publication. They continue to provide website updating and hosting; public information and branding services.

Riverside County Parks and Open-Space District: Managed different Management Units. Performed specific species and habitat related activities. Regional Conservation Authority has conservation easements over the upper San Jacinto River on Eastern and Lake Hemet Water District land. This area is popular for off-road activities and illegal dumping. Soboba reservation is on the other side of the river, they meet in the middle of river, and there are several access points. Access from the north side of the river has been an issue, but the Tribe contacted Parks and is interested in working with them on controlling the access points through the river. There was a small fire at the Oak Valley property in San Timoteo. Of the eight acre fire, four acres of RCA land burned consisting mostly of grassland.

Santa Ana Watershed Association (SAWA): RCA's biological monitoring group. This is peak season for SAWA in terms of surveys. They start in February and run through October, but high season is April through the end of June. They are working on a dozen of different surveys; while also working on the 2014 survey reports and their section of the annual report. They are very busy during this time of the year.

David Kennett (Capitol Alliance Consulting)/Douglas P. Wheeler (Hogan Lovells): Both are focused on the loan legislation that would create a new program to provide loans and loan guarantees for habitat acquisitions related to HCPs that support infrastructure development. They are pursuing Senate and House Transportation Reauthorization bills that would allow HCPs to secure large loans for habitat acquisition through the Transportation Infrastructure Finance and Innovation Act (TIFIA).

M/S/C (BENOIT/ZANOWIC) that the RCA Executive Committee:

- 1) **Recommend that the RCA Board of Directors receive and file the Fiscal Year 2015 Fourth Quarter Consultant Reports; and**
- 2) **Authorized staff to agendaize this matter for the September 14, 2015 meeting of the RCA Board of Directors.**

(6 Ayes, 0 Nays)

12. DISCUSSION AND POSSIBLE EXECUTIVE COMMITTEE ACTION CONCERNING STATUS OF AGEED-UPON PROCEDURES

Honey Bernas gave an update on the fee collections, audits and development agreements (DAs). RCA is making a lot of progress.

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It was reported that RCA should be caught up with all the audits soon. Before the auditors came out to do their field work, RCA received 12 draft 2014 reports issued to RCA that needed reviewing.

Honey provided a list of DAs indicating RCA's determination of outstanding amounts, along with the agreed-upon procedures findings for member agencies. RCA is making progress.

Vice-Chairman Montanez asked for the timeframe on completing the rest of the audits. Delores Reyna, Administrative Manager, answered that RCA has drafts through 2014. As soon as staff and the member agencies and RCA review, final reports will be issued and the auditors can start the 2015 fiscal year audits.

Vice-Chairman Montanez asked if the cities were notified of the draft ones. Honey Bernas answered no and added that RCA staff needs to review and meet with the cities to confirm that we have all the correct information before we issue a report.

Vice-Chairman Montanez asked if it would be helpful, especially on those with large amounts, to at least notify them rather than continue on. Honey advised that the members are aware of the findings listed. She stated that RCA has been working with the member agencies to clear up the findings and reported on each of the member agencies with findings.

Vice Chairman Montanez asked how RCA handles the fact, that city did not pay attention to the expiration date of a development agreement, but the developer did and yet the developer is not paying the fees knowing full well that the development agreement has expired. He asked if there is a way to go after the developers directly versus the city doing it. Steve DeBaun, legal counsel, responded that the obligation springs from the ordinance that each city has adopted and if that city has not properly collected the fee, then the city is not properly implementing its ordinance. Board Member Edwards explained that the City of Temecula's development agreement expiration dates are entered on the computer, so it will come up and generate a message. Honey Bernas stated that as long as the cities are reporting that they have exemptions, RCA can confirm they are current. Vice Chairman Montanez stated that it's not fair to the cities to go back two to three years. He noted that there is training with staff, so if there is a disconnect it has to be determined where that disconnect is and see if there is any commonality. Cities are not trying to evade the issue. Honey encouraged that cities should be submitting their exemption reports and RCA can review them upon receipt. As an example, July fee reports have just been received and there were exemptions that were not previously reported. RCA gives a courtesy call. There is also a fee increase that was to be implemented July 1, 2015. Some members are still collecting at the old rate. When RCA receives the report, the member agency is notified right away. RCA is being more proactive and assisting the member agencies.

13. EXECUTIVE DIRECTOR'S REPORT

13.1 Loan Program Update

Charles Landry updated Executive Committee that RCA received \$2 million in Section 6 funds for fiscal year 2015-16. The Regional Conservation Authority hopes to receive match funds from the State of California, which is typically a one-third match. This would result in RCA receiving \$3 million in grand funds for 2016. This is good news, because the total Section 6 is only between \$18-20 million for acquisition grants. So this \$2 million dollars is from the total United States pot. This is the fourth consecutive year that RCA has been allotted the funds. He further stated that is why it's important for elected officials to lobby in DC the service, resulting in these outcomes. Charlie gave thanks to all the elected officials for such support in doing so. Monday morning group also lobbied this issue on RCA's behalf, most importantly Congressman Calvert and Senator Feinstein. Congressman Calvert is to be commended for keeping Section 6 alive throughout the last few years.

Charlie Landry advised that Tom Mullen, consultant, who has been serving on a reimbursable only contract for traveling expenses going back and forth to DC on behalf of RCA, has resigned. Tom plans to continue his assistance when able, but with no reimbursable contract. Honey Bernas added that if he travels to D.C., he will do it at his own expense. Board Member Miller asked if he was still assisting in the same capacity as before. Charlie answered that it will be significantly reduced, but if there is an opportunity that he can assist us, he will. It will be on an informal basis with no contract. Board Member Edwards asked if Tom Mullen frequents D.C. Charlie answered that he will still be lending assistance to RCA if he happens to be in D.C. Board Member Miller commented on the effectiveness of Tom Mullen's abilities for RCA in D.C. Vice Chairman Montanez asked if there was another motive for resigning. Charlie answered to say that he did not want any potential for conflicts and having more personal time. Tom has dedicated a lot of time on the loan program.

14. FUTURE AGENDA ITEMS: *(Committee members are invited to suggest additional items to be brought forward for future discussion.)*

There were no requests for future agenda items by the Executive Committee.

15. CLOSED SESSION ITEMS:

15.1 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to paragraph 1 of Subdivision (d) of Government Code Section 54956.9

- **Case Number RIC1203353 Albert Thomas Paulek vs. RCA**

- **Case Number MCC1300351 JPR, Inc., dba Silverado Ranch Estates vs. California Department of Fish and Game; County of Riverside; Western Riverside County Regional Conservation Authority**

15.2 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph 2 of subdivision (d) of Section 54956.9

One potential case.

15.3 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Initiation of litigation pursuant to paragraph 4 of subdivision (d) of Section 54956.9

One potential case.

After closed session, the meeting was reconvened. There were no announcements from close session.

16. ADJOURNMENT

There being no more items before the Executive Committee, Vice-Chairman Montanez adjourned the meeting at 1:20 p.m. The next meeting of the Western Riverside County Regional Conservation Authority Executive Committee will be held on Wednesday, September 16, 2015, at 12:00 p.m., at the Riverside Centre, 3403 Tenth Street, Suite 320, Third Floor, RCA Conference Room, Riverside, California, 92501.

Prepared by:



Rose Esparza
Administrative Manager

Respectfully submitted:



Honey Bernas
Clerk of the Board