

AGENDA ITEM NO. 6

MINUTES

June 15, 2016



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 Chairman Montanez at 12:05 p.m., Wednesday, June 15, 2016, at the RCA Conference Room, 3403 Tenth Street, Suite 320, Riverside, California, 92501.

2. ROLL CALL – was taken by Rose Haro.

COMMITTEE MEMBERS PRESENT	COMMITTEE MEMBERS ABSENT
Eugene Montanez, Chairman – City of Corona	Natasha Johnson - City of Lake Elsinore
Marion Ashley, Vice Chairman – County of Riverside District V	John Tavaglione County of Riverside District II
Jonathan Ingram, City of Murrieta	
Maryann Edwards - City of Temecula	
Ben Benoit – City of Wildomar	

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 – May 18, 2016

M/S/C (INGRAM/BENOIT) to approve the minutes of the May 18, 2016 meeting of the Executive Committee as submitted.

(5 Ayes, 0 Nays, 0 Abstain)

7. WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP) LOCAL DEVELOPMENT MITIGATION FEE (LDMF) COLLECTION AND CIVIC/INFRASTRUCTURE CONTRIBUTION REPORT FOR MAY 2016

Honey Bernas, Director of Administrative Services, presented the LDMF Collection and Civic/Infrastructure Contribution Report for May 2016. The RCA received fees in the amount of \$1,058,618 for 380 residential permits and 60.4 commercial acres. There were 68 reported exemptions totaling \$132,568. There were 33, exemptions in the City of Lake Elsinore, 23 exemptions in the City of Temecula, and 12 exemptions in the County of Riverside. There were no reported Civic/Infrastructure projects.

M/S/C (INGRAM/BENOIT) to:

- 1) Recommend that that RCA Board of Directors receive and file the Western Riverside County MSHCP LDMF Collection and Civic/Infrastructure Contribution Report for May 2016; and
- 2) Authorize staff to agendize this matter for the July 11, 2016 meeting of the RCA Board of Directors.

(5 Ayes, 0 Nays, 0 Abstain)

8. DRAFT RESOLUTION NO. 2016-003, RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY REVISING ITS FEE CREDIT AND WAIVER POLICY AND REPLACING RESOLUTION NO. 05-05.

Honey Bernas, Director of Administrative Services, advised that the policy was revised and sent to all Member Agencies for review with comments due back by June 27, 2016. A meeting was held with the City of Hemet who was pleased with the policy as revised. The Cities of Jurupa Valley and Murrieta provided comments approving the revised policy. The City of Corona requested that Section III.A. on page 2. be revised to add “or at the cost of the property owner requesting the fee credit, waiver or reduction” this would allow Member Agencies to require the developer to pay for the cost of the appraisal.

Board Member Ingram stated that the Member Agency still has the authority to do so and recommended keeping the language as it is. This decision lies with the Member Agency, who has the final authority. He was perplexed as to why a Member Agency would want to do this if one could save the client the fee and expedite the process.

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Board Member Edwards asked if it would be redundant to add the language proposed by the City of Corona.

Board Member Ingram said that it was because they already have the authority to do that now. He offered to discuss with the City of Corona with the Chairman's permission.

Chairman Montanez concurred.

Board Member Ingram further stated that the policy is equitable for everyone involved. He would like to see this policy move forward.

Honey Bernas stated that Ed Sauls wanted the policy to read that the Member Agency would not charge the developer for the cost of the appraisal. She advised Mr. Sauls that it was not RCA's place to tell the Member Agency what they can or cannot do.

Board Member Ingram stated that this resolution was designed to protect Member Agencies' rights. There are no statements in the policy that take those rights away. In his opinion, this resolution is ready and should be moved forward to Board of Directors meeting for a vote.

Chairman Montanez asked if there were any other comments received from Member Agencies.

Honey Bernas responded that Member Agencies have until June 27 to respond. If she does not hear of any major issues from Member Agencies, she will forward this item to the Board of Directors for consideration at their July 11, meeting. Should she receive additional substantive comments, she will bring the matter back to Executive Committee on August 17.

There was no motion to vote on.

9. RESOLUTION NO. 2016-011, RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY IMPLMENTING A POLICY REQUIRING A TOLLING/WAIVER AGREEMENT BY MEMBER AGENCIES DURING THE RESOLUTION OF CERTAIN FEE ISSUES

Honey Bernas, Director of Administrative Services, presented this item. She reported that legal counsel revised page 5 based on the RCA Board of Directors' comments on June 6, 2016. This would make the policy reciprocal for RCA and the Member Agencies tolling their statute of limitations. She said that RCTC was contacted by Steven DeBaun, Legal Counsel. Steven DeBaun reviewed the Measure A language and said his preliminary opinion did not provide the authority to withhold only a portion of Measure A. Steven DeBaun has a meeting scheduled with RCTC to discuss further and will report back to the Executive Committee. Staff and legal counsel recommend not moving this policy forward to the RCA Board of Directors at this time

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Board Member Ingram said that in regard to the tolling agreement and the whole reason he went so far out of his way to bring this item back to Executive Committee for discussion is because the policy needs to be thoroughly reviewed. After speaking to other Board Members, even if RCA had the ability to withhold a specific portion of Measure A that is due a city, it's really not a hammer with teeth. The Member Agency would only lose the amount of Measure A that they owe RCA. Regional Conservation Authority needs to figure out a different way to use that carrot and stick, which Board Member Ingram will work with staff on with the permission of the Committee. Board Member Ingram stated that it would be prudent for RCA to pursue Tolling Agreements with the five Member Agencies who have outstanding issues because those Member Agencies are willing and the clock is ticking against RCA.

Board Member Edwards agreed with Board Member Ingram's statements and commented that RCA has to get these agreements in place.

Board Member Ingram stated that it is in the best interest of RCA to get Tolling Agreements or the RCA will lose money due to the statute of limitations running out. The cities are willing to participate in those Tolling Agreements so it would be advantageous to allow legal staff to initiate the five Tolling Agreements while staff works on the actual policy.

Board Member Edwards said that cities enter into Tolling Agreements all the time even though they do not call them Tolling Agreements. There are deadlines on everything. There has to be or cities would be in open-ended contracts all the time.

Board Member Ingram agreed with Board Member Edwards and stated that he discussed this matter yesterday in his meeting with Charles Landry and Honey Bernas. The policy needs work. Timelines, parameters and mechanisms need to be established to ensure that tolling doesn't go on forever and when or when not to use the nuclear option.

Board Member Edwards asked if it's really a nuclear option if the Member Agency is agreeing to it.

Board Member Ingram answered that it is a nuclear option if RCA has to take Measure A because the problem is if you can't take a portion of it. What would transpire is that RCA would take all of Member Agency's Measure A. The Member Agency would have to go back into the queue to reapply for Measure A funding and that could be devastating.

Board Member Benoit asked if RCA really takes it or does it just stop.

Board Member Edwards answered that RCA does not take Measure A. Regional Conservation Authority just informs RCTC that the Member Agency is not in compliance with the MSHCP, which is a requirement for Measure A. It's just part of the process.

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Board Member Ingram agreed with Board Member Edwards and said that his concern is that time is of the essence, and RCA needs to move forward on the Tolling Agreements for the five.

Board Member Benoit asked if a separate item is needed to allow staff to go forward with that direction, because Steven DeBaun made it sound that legal counsel already has that authority and that it's an option in his tool chest to start a Tolling Agreement with some of these Member Agencies that wanted to.

Honey Bernas concurred with Board Member Benoit stating that is what she understood legal counsel to say from the dais. She stated if it was the Executive Committee's direction to have legal counsel enter into Tolling Agreements with the five Member Agencies, that she would inform Steven DeBaun upon his return.

Board Member Edwards said RCA needs to view Measure A in a different way. It is not RCA restricting the Measure A funds. Member Agencies are either in compliance with the MSHCP, or they are not. RCA does not impose the consequences of not being in compliance. Those consequences are already in place.

Honey Bernas stated that RCA must certify whether or not the Member Agencies are in compliance with the MSHCP. So far RCA has reported that Member Agencies are in compliance every year, but RCA's auditors have identified fee collection issues with some of the Member Agencies. Regional Conservation Authority and Member Agencies are working cooperatively to resolve these issues.

Board Member Ingram stated that affecting a Member Agencies' Measure A should be the last option and only used when all other remedies have been exhausted.

Board Member Edwards said the Member Agency is either in compliance or they are not; and if they are not, RCA does not impose the consequences. The consequences are already in place. They just come in to play.

Board Member Ingram stated his preference that the Tolling Agreement be designed to provide for: 1. X amount of days to comply with this; 2. X amount of days to do that. Each thing triggers a different response. For example, when one you get a ticket you sign for it, you go to court, or don't go to court you get a warrant. He suggested that RCA needs a process with the Tolling Agreement.

Chairman Montanez said if Steven DeBaun has the authority to move forward with the Tolling Agreements, he should continue with the process. The policy will be brought back after it's approved.

Board Member Ingram made the motion to allow/permit RCA staff and legal counsel to create Tolling Agreements with the following Member Agencies, he asked Honey Bernas to read them off.

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Board Member Edwards asked if the Committee's desire was to restrict the motion just to the five Member Agencies.

Board Member Ingram responded in the affirmative, until Tolling/Waiver Policy is finalized.

Honey Bernas stated that staff and legal counsel will initiate Tolling Agreements with the Cities of Calimesa, Lake Elsinore, Perris, and San Jacinto. She indicated that the City of Temecula and RCA staffs have come to a resolution regarding the outstanding issue and will need to bring an item to the Board of Directors for approval so she was not sure if it would be necessary for this Member Agency to sign a Tolling Agreement.

Board Member Ingram asked if there was a clock ticking.

Board Member Edwards said not to leave City of Temecula out.

Board Member Ingram said to go ahead and put City of Temecula in then.

Chairman Montanez suggested that to place Member Agencies as necessary, as Steven DeBaun is already working on them.

Board Member Ingram reiterated that the cities are now in there and that this is being done in lieu of having the statute of limitation run out.

Board Member Edwards seconded the motion.

M/S/C (INGRAM/EDWARDS) Authorizing RCA Staff and Legal Counsel to initiate tolling agreements with the following cities: City of Calimesa, City of Lake Elsinore, City of Perris, City of San Jacinto and City of Temecula and to continue working on the Tolling/Waiver Policy for approval to the Board.

(5 Ayes, 0 Nays, 0 Abstain)

10. WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY SUPPORT FOR SENATE BILL 1386

Charles Landry, Executive Director, presented this item. He said that this bill is commonly referred to the Natural and Working Lands Climate Solutions Act. It's a State policy that protects and manages natural and working lands. This would be reserve lands. The reason for RCA supporting this senate bill is to help in obtaining Senator Wolk's support for Cap and Trade. This bill will allow reserve type lands to be eligible for carbon sequestration projects because they have as much value as riparian on pulling out and treating carbon. The California Habitat Conservation Plan Coalition (HCP) is trying to support this bill so that there is movement on a future bill which would then include conservation plans into the existing Cap and Trade.

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Board Member Benoit ask if it was the Cap and Trade that just sold their bonds for \$10 million.

Charles Landry answered in the affirmative and said at the last auction, Cap and Trade hardly got anything back. Regardless of what happens with this bill, long term it would be a good thing to make national and state HCP's eligible for Cap and Trade funding, just as agricultural lands are. That is why he recommends supporting this bill.

Board Member Benoit said he fully supports it. Western Riverside County of Governments is trying to do the same with the savings they are experiencing with placing solar panels on the rooftops. His caveat to both with what was just experienced is that adding more to the Cap and Trade program is not going help any if the program is already upside down. This bill will add to that problem. He is not sure if these bills will get signed, but it would be great if they did.

Charles Landry said that conceptually Cap and Trade was really aimed for conservation programs that agencies manage.

Board Member Edwards said keep in mind that as long as the Cap and Trade money is set aside, it's an elected official's job to get in and fight for every penny.

Charles Landry clarified that this bill does not do anything with Cap and Trade right now, but it could pull from it later.

M/S/C (BENOIT/EDWARDS) to:

- 1) Recommend that the RCA Board of Directors authorize the Chairman to sign the attached letter in support of Senate Bill ; and
- 2) Authorize staff to agendize this matter for the July 11, 2016 meeting of the RCA Board of Directors.

(5 Ayes, 0 Nays, 0 Abstain)

11. EXECUTIVE DIRECTOR'S REPORT

Charles Landry reported on the following items:

11.1 Loan Program Update – Charles Landry gave an update on the Loan Program.

Board Member Edwards asked that Charles Landry send her some language regarding the Cap and Trade issue.

Charles Landry advised the Committee Members that he would be having surgery on June 27, and would be out of the office for a few weeks.

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- 12. 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.

13. CLOSED SESSION ITEMS:

13.1 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Subdivision (d) of Government Code Section 54956.9

- A. **Case No. RIC1600058 A. T. Paulek; Friends of the Northern San Jacinto Valley v. Western Riverside County Regional Conservation Authority; Coachella Valley Conservation Commission; California Department of Fish and Wildlife**
- B. **Case No. RIC1605515 A. T. Paulek; Friends of the Northern San Jacinto Valley; Center for Biological Diversity vs. County of Riverside; County of Riverside Board of Supervisors; Castle & Cooke Commercial-CA, Inc.; Western Riverside County Regional Conservation Authority**

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

14. ADJOURNMENT

There being no other items before the Executive Committee, Chairman Montanez adjourned the meeting at 12:30 p.m. The next meeting of the Western Riverside County Regional Conservation Authority Executive Committee will be held on Wednesday, August 17, 2016, 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 Haro
Administrative Manager

Respectfully submitted:



Honey Bernas
Clerk of the Board