

Regional Conservation Authority

Minutes of March 8, 2004

Staff Contact:

**Rick Bishop, WRCOG
(909) 955-7985**

Background:

Minutes of March 8, 2004 RCA Board meeting are presented for approval.

Staff Recommendation:

Receive and file.

Attachment: Minutes of March 8, 2004 RCA Board Meeting

Regional Conservation Authority

**Status Report
Jurisdiction Joint Powers Agreement Execution**

Staff Contact: Carolyn Syms Luna, County of Riverside
(909) 955-6625

Background:

In order to exercise voting privileges on the Regional Conservation Authority (RCA) Board, the member jurisdiction has to have executed a Joint Powers Agreement (JPA). As of this writing, three jurisdictions have not executed the RCA JPA. A status report tracking this information has been provided for your review.

Staff Recommendation:

Recognize those member jurisdictions that have executed the December 2003 version of the Joint Powers Agreement (JPA) to exercise Regional Conservation Authority (RCA) voting privileges.

Attachment: Status report of JPA execution by the 14 Western Riverside County Cities and the County of Riverside

Regional Conservation Authority

Selection of RCA Chairperson and Vice-Chairperson

Staff Contact:

**Carolyn Syms Luna, County of Riverside
(909) 955-6625**

Background:

At the February 2, 2004 Inaugural meeting of the Regional Conservation Authority (RCA) Board, a number of the member jurisdictions still had to execute their respective Joint Powers Agreement (JPA), which makes them an official "voting" member of the RCA. The Board elected a Chairperson and Vice-Chairperson, and at the subsequent March 8, 2004 RCA Board meeting, directed staff to agendize this matter in the event that the RCA Board wanted to revisit the item.

Staff Recommendation: None

Attachments: None

Regional Conservation Authority

**USFWS – CDFG Western Riverside County
MSHCP 10A Permit Issuance Status**

Staff Contact:

**Best Best & Krieger, Legal Counsel
(909) 686-1450**

Background:

Since the County and the other participating state and local jurisdictions have approved the Western Riverside County Multiple Species Habitat Conservation Plan (“MSHCP”), the next step is for the California Department of Fish and Game and the United States Fish and Wildlife Service (collectively “Wildlife Agencies”) to issue the “Take” Permit. Issuance of the Take Permit will allow the RCA Member Agencies to actually issue “Take” under the State and Federal Endangered Species Acts for both private development as well as for their own projects. County staff, consultants and legal team have been actively assisting the Wildlife Agencies in this effort. The current schedule proposed by the Wildlife Agencies calls for Permit issuance by the end of May 2004. Staff and legal counsel would be happy to answer any questions that the Board might have on Permit issuance.

Staff Recommendation:

Direct RCA staff and legal counsel to continue to work with the County and the Wildlife Agencies to ensure timely Permit issuance.

Attachments: None

Regional Conservation Authority

**Appointment of an Ad Hoc Committee
Addressing JPA Language and Procedures**

Staff Contact:

**Best Best & Krieger, Legal Counsel
(909) 686-1450**

Background:

A. Possible JPA Language Changes.

During previous meetings, board members and member agency staff have expressed interest in reviewing the language of the RCA joint powers agreement. At least one jurisdiction has request that specific language changes be made to the joint powers agreement. These changes included specific provisions related to the acquisition of property within certain jurisdictions, specific provisions related to the composition and powers of the Funding Coordination Committee, specific language regarding member agency contributions and changes to the indemnification language.

In light of the foregoing request, staff recommends that the board appoint an Ad Hoc Committee to discuss the proposed language changes. The Ad Hoc Committee would report back to the RCA board on whether it recommends changes in the existing joint powers agreement.

B. Bylaws.

In addition, the Board will need to adopt bylaws, which establish procedures for the agency. These could include matters such as public comment procedures, duties of Chair and Vice Chair, agenda procedures and meeting procedures. Discussion of the Bylaw can also be included as part of the Ad Hoc Committee agenda.

C. Alternates.

At the last meeting, the board requested an analysis of the county members' rights to appoint alternates under the existing JPA. Under the RCA joint powers agreement, each Supervisor may appoint an alternate to act in his place on the board. During previous meetings, board members and member agency staff have expressed interest in whether a Supervisor must select an elected official as an alternate or may select a staff person or other member of the public. Board members and member agency staff have also expressed interest in whether a Supervisor may delegate his voting power another sitting RCA board member.

As described in more detail below, under the existing JPA, the following rights exist: 1) the county members may appoint alternates under the JPA; 2) the alternate need not be an elected official; 3) the alternate may be a staff member or other member of the public; 4) in the absence of state legislation, a member should not delegate his vote to another sitting RCA board member.

The right of a Supervisor member to appoint a staff member or any other person as an alternate is found in section 6 of the JPA, which requires that an “alternate member of a City must hold an elective office”, while not imposing a similar requirement on county members. Section 6 of the JPA states only that “Each member of the Riverside County Board of Supervisors may appoint an alternate member”, imposing no limitation.

However, the same latitude does not appear to exist to delegate voting power to another sitting board member (referred to herein as “proxy voting”). While the codes and cases do not specifically discuss proxy voting, we believe that in the absence of specific state legislation, such a voting mechanism is contrary to the Brown Act. This is because the Brown Act requires that the deliberative process of public bodies regarding matters not subject to a closed meeting exception be open for public scrutiny. If votes are cast or voting power delegated outside of public view, the public may be deprived of a portion of its right. Accordingly, we have significant concerns whether such a procedure would be valid under the Brown Act.

D. Procedural Issues.

Last Thursday the WRCOG TAC reviewed the Board approved RCA organizational chart. The TAC requested that the RCA board consider minor refinements to the chart to clarify staff responsibilities.

In addition, the committee requested that the RCA consider creating a formal City Manager/ County CAO committee as a standing committee of the RCA. This Committee would review matters referred to it by the RCA Board

Staff Recommendation:

Authorize the Chair to appoint an Ad Hoc Committee to consider some or all the issues discussed above.

Attachments: None

Regional Conservation Authority

RCA Administrative Responsibilities Committee Overview

Staff Contact:

**Carolyn Syms Luna – County of Riverside
(909) 955-7985**

Background:

As you may recall, the Western Riverside County MSHCP requires the establishment of a number of committees concerning Plan implementation. The formation of these committees has been presented in chronological order based on their respective trigger mechanism.

1. Reserve Managers Oversight Committee

The Reserve Managers Oversight Committee (RMOC) shall be assembled within 60 days of the effective date of the contract between the RCA's Board approval of the Executive Director.

The RMOC serves as the intermediary between the "on-the-ground" MSHCP activities conducted by the Reserve Managers and others and the decision making function of the RCA.

The RMOC is comprised of **one representative** from entities that own/manage reserve lands (such as BLM, USFS, **RCA**, Riverside County Regional Park and Open Space District), County of Riverside and Cities if applicable, the Wildlife Agencies, **and up to 5 other private or public agencies as appointed by RCA**. At a minimum, the RMOC shall meet twice annually or more frequently as needed.

2. Funding Coordination Committee

Another committee that the MSHCP organizational structure calls out for is the establishment of the Funding Coordination Committee (FCC) within 120 days of issuance of permits to the RCA.

According to the MSHCP, the RCA Board of Directors shall form the FCC to provide input on local funding priorities including identifying priority areas for acquisition and local MSHCP Conservation Area acquisitions.

Members of the FCC shall be appointed by the **RCA** and **consist of representatives from the Wildlife Agencies and the RCA** (No specific number cited). The Plan also states that the Planning Directors, or designated representatives, participate in the Funding Coordination Committee as appropriate.

The FCC provides a forum to discuss Wildlife Agencies land acquisition priorities and keeps the RCA informed on acquisitions by non-local sources. The FCC advises the Board through the Executive Director; however, the RCA Board has the final word concerning FCC matters.

Over the last three years the County of Riverside has convened a “Funding and Implementation Committee (FIC)” that has coordinated the conservation of properties under the auspices of the MSHCP using a variety of funding sources. Their ongoing efforts need to be evaluated in the context of the creation of the FCC. This can most effectively be accomplished through the formation of an Ad Hoc Committee. Other matters, such as the establishment of policies under which the FCC makes recommendations to the RCA, establishment of conflict of interest guidelines and constitution of the committee need also to be considered.

3. Elected Officials Ad Hoc Committee

As projects travel through the MSHCP joint project/acquisition process, the situation may arise where a project fails to:

- A. Meet the MSHCP implementation measures adopted by that jurisdiction,
- B. Compromises the viability of the MSHCP Conservation Area, or
- C. Otherwise fails to comply with the requirements of the MSHCP.

The project proponent and RCA staff shall utilize the MSHCP Compliance Meet and Confer provision in the Plan to resolve any outstanding issues. If no resolution occurs at this stage then the matter shall be submitted to an ad hoc committee **made up of elected officials representing the RCA** (No specific number cited) and the affected jurisdiction’s representative. ***The Elected Officials Ad Hoc Committee shall convene within 30 calendar days of submittal to review the project and to attempt to develop feasible solutions.***

This Committee was designed to address outstanding issues regarding project compliance with the MSHCP criteria should such issues not be resolved at a staff level. While convening, the affected jurisdiction agrees not to consider approval of a project until the ad hoc committee has completed its process.

If there is still no resolution between the RCA and the affected jurisdiction, and the jurisdiction intends to proceed with the project, RCA staff is obligated to notify the Wildlife Agencies within 14 days. The Wildlife Agencies shall then have the right to revoke or suspend all or portions of the permits as contained in the IA.

Staff Recommendation:

1. Request RCA Board members to express their interest in sitting on the following committees: **FCC, RMOC** and the Joint Project/Acquisition Review Process – **Elected Officials Ad Hoc Committee**, and
2. Authorize the Chair to appoint an Ad Hoc Committee to consider the issues discussed above.

Attachments: RCA Board Member Committee Interest Form

Regional Conservation Authority

**Administrative / Personnel Contract
between WRCOG and the RCA**

Staff Contact:

**Best Best & Krieger, Legal Counsel
(909) 686-1450**

Background:

The Regional Conservation Authority (RCA) Joint Powers Authority (JPA) Agreement provides that “the [RCA] Board may contract with WRCOG or any other public entity to provide administrative/personnel services to the RCA.” (See JPA section 11) It also provides that the RCA may contract with WRCOG to prepare an annual budget.” (See JPA section 19.D.) The attached Administrative/Personnel Services Contract between RCA and WRCOG memorializes RCA’s intent to act pursuant to its authority under the JPA to contract with WRCOG for administrative/personnel and budget services. Specifically, the contract requires WRCOG to provide contract management, budget, administrative, policy coordination, accounting, outreach and other services through its staff to assist the RCA in its obligation to implement the MSHCP for an initial period of three years.

Staff Recommendation:

Approval of the Administrative/Personnel Contract with the Western Riverside Council of Governments and authorize the RCA Chairperson to execute said agreement on behalf of the RCA Board.

Attachment: Administrative/Personnel Contract

Regional Conservation Authority

**Reimbursement Agreements Between the
County of Riverside, WRCOG & with the RCA**

Staff Contact:

Best Best & Krieger, Legal Counsel
(909) 686-1450

Background:

The RCA Joint Powers Agreement allows the RCA to contract for services with the County and WRCOG. Pursuant to the MSHCP, it allows RCA to contract with the County for to provide an appropriate department or individual to act as the Executive Director. It also allows RCA to contract with WRCOG to provide administrative/personnel services, including budgeting, to the RCA. Pursuant to those provisions of the joint powers agreement, the RCA Board has approved a Management Services Agreement with the County and is considering at this meeting an Administrative/Personnel Services Agreement with WRCOG.

The purpose of the proposed reimbursement agreements with the County and WRCOG is to allow the RCA to defer payment due under the Management Services Agreement and the Administrative/Personnel Services Agreement until adequate funding becomes available to the RCA, but no longer than two years after the issuance of the Western Riverside County MSHCP 10A Permit. Staff believes the reimbursement agreements are necessary to allow RCA to operate until it begins to collect development mitigation fees.

Staff Recommendation:

Approval of Reimbursement Agreements with the County of Riverside and the Western Riverside Council of Governments and authorize the RCA Chairperson to execute said agreement on behalf of the RCA Board.

Attachments:

Reimbursement Agreement between RCA and the County
Reimbursement Agreement between RCA and the WRCOG

Regional Conservation Authority

**Selection of an RCA Treasurer
and Auditor / Controller**

Staff Contact:

**Best Best & Krieger, Legal Counsel
(909) 686-1450**

Background:

Under the RCA Joint Powers Agreement, Section 8.A., the Board must appoint a treasurer. The treasurer must be the treasurer of a member agency. Under Section 8.B. of the joint powers agreement, the RCA must also appoint a controller, who must be the finance director of a member agency. Under the Government Code, the controller must be of the same public agency as the treasurer.

The basic functions of the treasurer are to have custody of RCA funds and disburse them according to established procedures. The controller must draw warrants to pay demands against the RCA, which have been approved by the RCA Board. With Board approval, the controller will also contract with an independent certified public accountant firm to make an annual audit of the RCA's accounts.

Staff Recommendations:

1. Consider appointing a treasurer and an auditor/controller for the RCA. The treasurer must be the treasurer of a member agency. The controller must be a finance director of the same public agency as the treasurer, or
2. In lieu of making an appointment today, the Board could consider directing staff to survey the member agencies for their interest and cost of providing these services. In addition, the Board could appoint an Ad Hoc Committee to discuss the appointment and report back to the RCA Board.

Attachments: None at this time.

Regional Conservation Authority

**Western Riverside County
Regional Conservation Authority
Logo**

Staff Contact:

**Rick Bishop, WRCOG
(909) 955-7985**

Background:

A logo for the new Regional Conservation Authority (RCA) is an important component of creating an “identity” for the RCA. At the March 8, Board meeting a few conceptual designs were presented. Additional design concepts can be secured through a variety of means:

1. RCA staff developed,
2. Contract for professional services or,
3. Hold a MSHCP logo contest open to high school students in Western Riverside County.

These options are not to be considered all-inclusive and are meant to promote discussion among the RCA member agencies.

Staff Recommendation: Discuss and provide direction to staff.

Attachment: Conceptual Logos

Regional Conservation Authority

MSHCP State Agencies Tour

Staff Contact:

**Rick Bishop, WRCOG
(909) 955-7985**

Background:

The County of Riverside has arranged for a State Agencies Tour of the Western Riverside County Multiple Species Habitat Conservation Plan on April 29, 2004. California Resources Agency Secretary Mike Chrisman, along with a contingent of officials from the state's departments that manage natural resources, will be touring Western Riverside County. Tour highlights include: a tour of the California Department of Fish and Game lands at Potrero, a flight over the Wilson Creek/Cactus Valley area, and an opportunity to meet Regional Conservation Authority staff and Board members. The group will fly into Riverside County to tour a range of conservation areas and receive briefings on conservation efforts underway locally.

County officials have extended an invitation for two Board Members of the Regional Conservation Authority to participate in the briefing. This is a great opportunity to meet state officials who oversee the Department of Fish and Game and other state functions that will be involved in the implementation of the Multiple Species Habitat Conservation Plan.

Staff Recommendation:

1. Authorize the Chair to appoint two members from the RCA Board of Directors to attend the County sponsored State Agencies briefing and tour.

Attachment: Biography of Resources Secretary Mike Chrisman