



MEETING MINUTES

Monday, October 6, 2008

1. CALL TO ORDER

The meeting of the Board of Directors of the Western Riverside County Regional Conservation Authority was called to order by Chairman Eugene Montanez at 1:03 p.m. in the Board Room of the County Administrative Center, 4080 Lemon Street, Riverside, First Floor, Riverside, California 92501.

2. ROLL CALL

Board Members/Alternates Present

Marion Ashley
Bob Buster
Maryann Edwards
Frank Hall
Jim Hyatt
Martie Killough
Robin Lowe
John Machisic
Andy Melendrez
Eugene Montanez
Jeff Stone
John Tavaglione
Gary Thomasian
Charles White
Mark Yarbrough
John Zaitz

Board Members Absent

Robert Schiffner
Dale Stubblefield
Roy Wilson

3. PUBLIC COMMENTS

Garry Grant, representing himself and RCUC, said that RCA's priorities are outdated as it related to the citizens of the area. He suggested a moratorium on federal expenditures and added that the \$72 million negotiated for a property was far too much when funds could be used for the people especially with the state of the economy today. He then asked RCA for data showing the savings on endangered species with properties that were acquired from almost five years ago to the present. He considered the acquisitions as land bank for speculators and for those people to influence the government.

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4. BOARD MEMBER ANNOUNCEMENTS

There were no Board Member announcements.

5. ADDITIONS/REVISIONS

The title of Agenda Item 9.1 should read, "MSHCP Road Coverage."

6. APPROVAL OF MINUTES

M/S/C (LOWE/ZAITZ) to approve the minutes of October 6, 2008 meeting of the RCA Board of Directors, as submitted.

Abstain: Machisic

7. CONSENT CALENDAR

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

7.1 ADOPTION OF RESOLUTION NO. 08-013, A RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY ADOPTING A SURPLUS REAL PROPERTY POLICY

Adopt Resolution No. 08-013, A Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority adopting a Surplus Real Property Policy.

7.2 ADOPTION OF RESOLUTION NO. 08-015, A RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY'S BYLAWS CONCERNING THE PURCHASE AUTHORITY FOR SUPPLIES, MATERIALS, OR EQUIPMENT

Adopt Resolution No. 08-015, A Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Amending the Authority's Bylaws Concerning Purchase Authority for Supplies, Materials, or Equipment.

7.3 FISCAL YEAR 2007-08 YEAR-END FINANCIAL REPORT

Receive and file the Fiscal Year 2007-08 Year-End Financial report.

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8. DISCUSSION ITEM

8.1 REQUEST FROM ROBERT H. TYLER FOR A BARGAIN SALE ACKNOWLEDGEMENT

Brian Beck, Land Acquisition Analyst, stated that this item pertains to a request from Robert H. Tyler for a bargain sale acknowledgement related to the RCA purchase of a 25-acre property, located in the City of Murrieta, east of Route 215 and Antelope Road, north of Devon Street, in September 2007. RCA and City of Murrieta staff determined that the subject property was called out for 100% conservation under the MSHCP and deemed as critical linkage because of development existing to the north and the south of the property. He then reviewed the process undertaken to reach a resolution which included ordering separate appraisals by RCA and the seller, using appraisers on the suggested appraiser list. The RCA appraiser concluded at a property value of approximately \$9.5 million while the seller's appraiser concluded at a property value of approximately \$11.7 million. During negotiations, staff raised the possibility of a bargain sale to the seller but only under the condition that the purchase price be significantly reduced. Since staff was not able to negotiate a significantly reduced price with the seller and because of the importance of the parcel to the reserve assembly goals of the MSHCP, staff negotiated a final purchase price of \$11 million, excluding bargain sale acknowledgement. Last June, the RCA Board approved to purchase the property without a bargain sale acknowledgement provision since the negotiated price was higher than the RCA approved appraisal price. Therefore, staff recommends that the RCA Board of Directors deny Mr. Tyler's request for a bargain sale acknowledgement, pursuant to Section 1.07 of the RCA Land Acquisition Policies.

In response to Charles White's question what made the difference between the two appraisers in determining property value, Brian Beck said that it is not atypical for appraisers to come up with different property value. In this case, the RCA appraiser's property value is less than \$2 million than the seller's. Since the negotiated price was over the RCA appraiser value and closer to the seller's, staff did not deem the transaction to be a bargain sale.

Jim Hyatt asked when the RCA adopted its bargain sale policy and Brian Beck said that the policy was adopted on December 4, 2006.

At this time, Jeff Stone asked staff to confirm if based on the seller's Disclosure Form if any member of the RCA Board has received over \$250 in campaign contribution from the seller or their representatives, to which

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Brian Beck said that there were no contributions disclosed by Mr. Tyler to any member of the Board.

Mr. Tyler disclosed his attendance to a fundraising event for Jeff Stone using a ticket paid for by a friend. His friend is not a part of nor has no involvement in this acquisition. At this time, Steve DeBaun, Legal Counsel, ruled that there was no conflict of interest by any member of the RCA Board.

Jeff Stone continued and asked staff if a form exists wherein the seller would sign off on the negotiated price and that there is no bargain sale acknowledgement. Brian Beck said that the Purchase and Sale agreement does not reference a bargain sale acknowledgement. Under the RCA policy, the bargain sale acknowledgement must be a part of the agreement.

At this time, Chairman Montanez opened the floor for public comment.

Robert Tyler, representing RHI Investments, stated that he was just made aware today that the policy on Bargain Sale Acknowledgement was approved in December 4, 2006. However, negotiations started in June, 2006, which was before the policy was adopted. So there was no bargain sales acknowledgement policy in the earlier part of the negotiation and, therefore, it was not fair for the RCA not to provide a bargain sale acknowledgement. He added that the Form 8283, Noncash Charitable Contributions, does not state that the RCA must be in agreement with the price that they (seller) are claiming. They will claim the value based upon their appraiser and by RCA signing the form will only acknowledge that the property was received. The signed form will be of assistance to the seller with regards to processing IRS documentation as they would have to pay over \$100,000 in additional taxes in reporting the sale.

In response to John Tavaglione whether acquisitions to date have been in accordance with RCA policy, Brian Beck acknowledged that they were. John Tavaglione stated that to insure that the RCA is not setting a precedence ruling outside of the policy, he agreed with the Executive Committee and staff recommendation to deny the request for a bargain sale acknowledgement.

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After a lengthy discussion among the Board Members regarding the RCA negotiation process, Jeff Stone stressed the need for a clearer negotiation process which informs the seller of the bargain sale policy, what is considered a bargain sale, and whether or not the agreed upon purchase price includes a bargain sale acknowledgement. Having a clearer process would be beneficial to the agency and provide better understanding by both parties.

M/S/C (TAVAGLIONE/WHITE) to:

- 1) Deny Robert H. Tyler's request for a bargain sale acknowledgement for bargain sale acknowledgement, pursuant to Section 1.07 of the RCA Land Acquisition Policies; and
- 2) Direct staff to develop possible changes to the Board's Bargain Sale policy which more clearly defines the negotiation process and to bring it back to the RCA Board for approval.

Nay: Stone

9. EXECUTIVE DIRECTOR'S REPORT

9.1 Road Standards Report -- Corrected to read MSHCP Road Coverage

Charles Landry, Executive Director, stated that at the last meeting, the RCA Board requested a report on road coverage. He then introduced Stephanie Standerfer, Dudek & Associates, Inc., to present the report.

Stephanie Standerfer provided a summary on road standards and coverage in relation to the criteria areas, the process that local agencies, such as the cities and the county, follow for improvements and development. She stated that planned roadways were taken into account in the MSHCP.

In response to Bob Buster's inquiry about the County's Cajalco Road project, Stephanie Standerfer said that the Cajalco Road alternative which involves realignment of the existing road and construction of a new four-lane divided roadway is in the Plan and will follow the CETAP alternative.

Jeff Stone asked about what the cities and the County might consider for general plan amendment, i.e., roadways and development in the environmental areas. Stephanie Standerfer said that such things as the general plan development would go through the CEQA process in consistency with the MSHCP.

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9.2 Consultant Services – Regional Parks and Open Space District

Charles Landry reported that the RCA's contract with the District is for a period of 25 years and was entered into 2006. The services provide include: 1) Perform inspections of all properties being acquired to insure that RCA acceptance standards are met by providing biological summaries of habitat conditions and contributions to the Reserve; 2) Patrol of all reserve lands to reduce off-highway vehicle (OHV) activities and trespassing; 3) Supervise and participate with maintenance workers in the clean-up, fencing and gate installation and repair, maintenance and habitat improvement projects. They also coordinate work with other agencies in area-wide code, OHV, and illegal dumping enforcement activities. The District has provided quality work and been under budget over the last three years.

10. LAND ACQUISITION UPDATE

Ken Graff, Director of Land Acquisition and Property Management, reported that since the last meeting, RCA closed on three additional properties totaling approximately 2,234 acres.

11. ITEMS FOR NEXT MEETING

Staff was directed to present a Bargain Sale Policy to the RCA Board for consideration at a future meeting.

Steve DeBaun, Legal Counsel, announced that Agenda Item 12.2 relates to the Stimmel and McElhinney cases.

12. CLOSED SESSION:

12.1 CONFERENCE WITH LEGAL COUNSEL: ANTICIPATED LITIGATION Pursuant to Subdivision (b) of Government Code Section 54956.9 Exposure to Litigation Number of Potential Case: 1

At this time, Steve DeBaun and Michelle Ouellette, Legal Counsels, left the Board Room.

12.2 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Pursuant to Subdivision (a) of Government Code Section 54956.9

- Case No. RIC 493432
- Case No. RIC 493433

At this time, the RCA Board meeting reconvened. There were no announcements from Closed Session.

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Charles Landry reminded the RCA Board of Directors and those present that the RCA Board meeting on November 3, will start at 10:00 a.m. A workshop on the RAND Report will immediately follow the meeting. .

13. ADJOURNMENT

There being no other items before the Western Riverside County Regional Conservation Authority Board of Directors, Chairman Montanez adjourned the meeting at 1:54 p.m. The next special meeting of the RCA Board of Directors is scheduled for Monday, November 3, 2008, at 10:00 a.m., at the County Administrative Center, Board Room, 4080 Lemon Street, Riverside, California.

Respectfully submitted,



Honey Bernas
Clerk of the Board