



EXECUTIVE COMMITTEE MINUTES WEDNESDAY, SEPTEMBER 17, 2008

1. CALL TO ORDER

The meeting of the Western Riverside County Regional Conservation Authority Executive Committee was called to order by Chairman Eugene Montanez at 12:10 p.m. in the RCA Conference Room, 3403 Tenth Street, Suite 320, Riverside, California.

2. ROLL CALL

Committee/Alternate Members Present

Bob Buster
Larry Dressel
Jim Hyatt
Andy Melendrez
Eugene Montanez
Jeff Stone*
Gary Thomasian

Committee Member Absent

None

*Arrived after start of the meeting.

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

M/S/C (HYATT/THOMASIAN) to approve the minutes of the Executive Committee's June 18, 2008 meeting.

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

Brian Beck reported that this item pertains to a request for a bargain sale acknowledgement from Robert H. Tyler relating to a 25-acre property sold to the RCA in September 2007, which is located east of Antelope Road and north of Devon Street, in the City of Perris. The property was called out for 100% conservation, under the MSHCP pursuant to JPR and HANS reviews. Because of existing development to the south and north, this is a critical linkage property. Both RCA and the seller requested an appraisal which resulted in different values. The RCA appraiser valued the property at \$9,540,000 while the seller's appraiser concluded the value of the property at \$11,727,005. Because of the importance of the property to the Plan, staff negotiated a final price of \$11 million. During negotiations, staff raised the possibility of a bargain sale acknowledgement but only in the context of getting a reduced final price, which they were not able to. The final negotiated price of \$11 million did not include a bargain sale acknowledgement. The Purchase and Sale Agreement did not contain language that that this is a bargain sale. Additionally, when the RCA Board authorized the acquisition, it did not approve the bargain sale acknowledgement. Therefore, staff recommends that the RCA Board deny Mr. Tyler's request for a bargain sale acknowledgement, pursuant to Section 1.07 of the RCA Land Acquisition Policies.

Bob Buster asked if it is a standard practice to offer sellers the bargain sale option, for federal tax purposes. Brian Beck said that it is offered when appropriate. With regard to this particular property, it was brought up in the context of acquiring the property at a significantly reduced purchase price which, in this case, was not attained. Had the bargain sale purchase been on the table, staff would have pushed for a much reduced purchase price.

In response to Andy Melendrez's request that staff explain the Carlsbad development offer, Brian Beck said that there were several property owners that have agreed to sell their property to Tyler and Associates. RCA was negotiating with Tyler and Associates and they were represented by RHT Investments, Inc.

Jim Hyatt said that in reviewing the RCA and seller's appraised value, that the agreed upon purchase price is much closer to the seller's appraised value.

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Robert H. Tyler, RHT Investments, Inc. said that the reason for his appearance before the Executive Committee is not because of any ill will against RCA staff but of possible misunderstanding during negotiation. He pointed out that Form 8283, Noncash Charitable Contributions, is submitted to the Internal Revenue Service upon a sale of real estate whereby the filing entity (RHT Investments) claims that they have sold their property for less than its fair market value. Form 8283, Part IV, *Donee Acknowledgment*, states that "...*This acknowledgment does not represent agreement with the claimed fair market value.*" What he is asking the RCA is not to agree with him on the fair market value but to simply acknowledge the transaction. If the IRS challenges the property value that he is alleging, they will be the one to deal with it. He understood that if a property was sold under the fair market value, they have the benefit of claiming it as a bargain sale. His request is for RCA to sign Form 8283 to acknowledge receipt of the property. He questioned whether the RCA policy on bargain sale existed at the time they entered into transaction, nor it was mentioned that the bargain sale acknowledgement has to be included in the Purchase and Sale Agreement. Additionally, Mr. Tyler stated that they would not have sold the property for less than their appraised value if they had known that they were not able to receive a bargain sale acknowledgement.

A lengthy discussion followed regarding the land acquisition process, the transaction, and RCA's policy on bargain sale acknowledgement.

M/S/C (HYATT/BUSTER) to:

- 1) Recommend that the Board of Directors deny Robert H. Tyler's request for a bargain sale acknowledgement, pursuant to Section 1.07 of the RCA Land Acquisition Policies; and***
- 2) Authorize staff to agendize this matter for the October 6, 2008 meeting of the RCA Board of Directors.***

Nay: Stone

8. FISCAL YEAR 2007-08 YEAR-END FINANCIAL REPORT

Honey Bernas, Director of Administrative Services, presented the unaudited year-end financial report for Fiscal Year 2007-08 noting that despite the fact that the revenue was 25% lower than projected, RCA will end the year with cash reserve of \$24 million. The year-end balances for the various departments are as follows: 1) Operations – approximately \$300,000; 2) Land Acquisition – \$4.6 million was drawn down from cash reserves with the remaining amount needed augmented by various grants; and, 3) Management and Monitoring – approximately \$133,000.

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M/S/C (HYATT/DRESSEL) to:

- 1) *Recommend that the Board of Directors receive and file the Fiscal Year 2007-08 Financial Year End Report; and*
- 2) *Authorize staff to agendize this matter for the October 6, 2008 meeting of the RCA Board of Directors.*

9. EXECUTIVE DIRECTOR'S REPORT

9.1 Report on Consultant Services – Regional Park and Open Space District

Charles Landry, Executive Director, said that RCA has contracted with the Regional Park and Open Space District for 25 years to operate, maintain and administer the reserves, including site evaluations prior to close of escrow on acquisitions, patrolling properties to enforce access and recreation restrictions, and evaluate and make repairs when necessary. They have a staff of eight, which includes a Natural Resource Manager, and operate ten vehicles. This contract allows RCA to fluctuate the services that they provide, depending on what is required to be done at the various properties. A contract budget is approved on an annual basis.

9.2 RCA Relocation

Charles Landry reported that RCA has now completed its move to the new offices at 3403 Tenth Street, Suite 320, Riverside.

10. FUTURE AGENDA ITEMS

The Executive Committee members discussed dates to consider for the October RCA Board meeting. Staff was directed to notify Board Members and Mr. Tyler of the date and time for the October RCA Board meeting.

At this time, Chairman Montanez adjourned the meeting to closed session.

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11. CLOSED SESSION

11.1 CONFERENCE WITH LEGAL COUNSEL: ANTICIPATED LITIGATION

Pursuant to Subdivision (b) of Government Code Section 54956.9

Exposure to Litigation

Number of Potential Cases: 1

After the Closed Session, Chairman Montanez reconvened the meeting. There were no announcements from the Closed Session.

12. ADJOURNMENT

The next meeting of the Western Riverside County Regional Conservation Authority Executive Committee will be held on Wednesday, October 15, 2008, at 12:00 p.m., at the Riverside Centre, 3403 Tenth Street, Suite 320, Third Floor Conference Room, Riverside, California, 92501.

Respectfully submitted,

A handwritten signature in blue ink that reads "Honey Bernas". The signature is written in a cursive, flowing style.

Honey Bernas
Clerk of the Board