



**WESTERN RIVERSIDE COUNTY
REGIONAL CONSERVATION AUTHORITY**

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MINUTES

Monday, October 1, 2007

1. CALL TO ORDER

The meeting of the Western Riverside County Regional Conservation Authority Board of Directors was called to order by Vice Chairman Eugene Montanez at 1:06 p.m. in the Board Room of the County Administrative Center, 4080 Lemon Street, First Floor, Riverside, California, 92501.

2. ROLL CALL

Board Members/Alternates Present

Marion Ashley
Dom Betro
Bob Buster
Larry Dressel
Frank Hall
Jim Hyatt
Robin Lowe
John Machisic
Eugene Montanez
Robert Schiffner
John Tavaglione
Gary Thomasian
Charles White
Roy Wilson
John Zaitz

Board Members Absent

Maryann Edwards
Jeff Stone
Dale Stubblefield
Mark Yarbrough

3. PUBLIC COMMENTS

A. Borre Winckel, Executive Director of the Building Industry Association, reported on the condition of the real estate industry. BIA representatives have met with various cities to discuss possible measures that could be taken to stimulate the housing market such as deferment of fees to a later collection point. He is proposing that the Riverside County Habitat Conservation Agency defer the \$500 per acre fee to a later collection point. He reiterated that the housing industry condition today is far worse than what is reported in the newspapers. They are looking at over fourteen months for the shakeout of the sub market alone. He stated that budgets that include

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fees, such as TUMF, should be reduced in half and again discounted at another time.

John Tavaglione concurred with Mr. Winckel's comments regarding the status of the economy that it has not hit bottom as of yet. RCA should discuss options that may lessen the impact. Over the years, Riverside County and its cities have been fortunate and prospered because it allowed reasonable positive development to occur unlike other counties/cities in the State. However, we may be affected harder by the declining economy harder because of the earlier great times. One approach might be to form a partnership with its customers, clients and communities and discuss options to lessen the setback and, at the same time, be prepared by having income still in place by way of deferred income when the economy starts to recover. The County of Riverside will be looking at the proposal to defer fees and suggested that the cities and this agency do the same.

Robin Lowe concurred and stated that the City of Hemet and the RCHCA will be also be addressing this item.

Tom Mullen, Executive Director, appreciated the comments presented today and noted the timeliness of land values depreciating as an opportune time for RCA to pursue acquisitions; however, revenues are decreasing. It is important to discuss the land purchase policy as there may be some dynamics that could cause problems.

Joe Richards, Deputy Executive Director, stated that RCA has acquisition commitments that are currently on the table. Staff will present the budget to the RCA Board at a future meeting.

4. BOARD MEMBER ANNOUNCEMENTS

There were no Board Member announcements.

5. ADDITIONS/REVISIONS

There were no additions/revisions.

6. APPROVAL OF MINUTES

In response to Charles White's request for additional information regarding the rough step on Page 6, Item 9.2, of the Minutes, Tom Mullen said that the MSHCP Plan includes a reserve assembly accounting process to monitor conservation and specified habitats within the criteria areas referred to as rough step. The formula in the Plan was modified by the past Executive Director. A review of the original and modified formula by the RAND Corporation and Dudek revealed that there was a fundamental

flaw in the formula. The RCA Board received testimony and a letter from the Center for Biological Diversity at its September meeting regarding rough step. A report on the 2004, 2005 and 2006 rough step will be presented to the RCA Board in December.

M/S/C (LOWE/MACHISIC) to approve the minutes of the September 10, 2007 meeting, as presented.

7. CONSENT CALENDAR

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

7.1 ADOPTION OF RESOLUTION NO. 07-07, AMENDING THE AUTHORITY'S BYLAWS CONCERNING THE ELIGIBILITY REQUIREMENTS FOR ALTERNATES TO THE BOARD OF SUPERVISORS AND ENDORSEMENT OF AN AMENDMENT TO JOINT POWERS AGREEMENT RELATED TO THE SAME

Adopt Resolution No. 07-07 amending the Authority's bylaws concerning the eligibility requirements for alternates to the Board of Supervisors and change the governing authority for the Authority from state laws governing counties to state laws governing cities.

7.2 ADOPTION OF RESOLUTION NO. 07-09 APPROVING THE ACCEPTANCE OF SUBGRANTS FROM THE WILDLIFE CONSERVATION BOARD

- 1) Adopt Resolution No. 07-09, which approves the acceptance of subgrants from the Wildlife Conservation Board for the Bolton, Mauger, Rullo and Dorfner Properties; and
- 2) Authorize the Chairman, pursuant to Legal Counsel's review, to execute the subgrant agreements on behalf of the Authority.

7.3 APPROVAL OF KIOSK DESIGN FOR RCA PROPERTY ACCESS POINTS, INTERPRITIVE CENTERS OR TRAIL HEADS

- 1) Adopt the basic Kiosk design plan attached to the staff report as an approved Kiosk design for RCA Open Space Reserve Lands; and
- 2) Authorize staff to direct their installation in appropriate sites.

7.4 APPROVAL OF PROFESSIONAL SERVICES AGREEMENT TO PERFORM AGREED-UPON PROCEDURES FOR MSHCP MITIGATION FEE ATTESTATION

- 1) Approve the Professional Services Agreement between the RCA and Ahern, Adhock and Devlin, LLP, and
- 2) Authorize the Chairman to execute said agreement on behalf of the Authority.

8. DISCUSSION ITEMS

8.1 APPROVAL OF MODIFICATION OF THE RCA APPRAISAL POLICY, SECTION 1.03 OF THE LAND ACQUISITION POLICIES

Brian Beck, Land Acquisition Analyst, advised the RCA Board that the proposed policy is to address requests of staff to provide either a full copy of the appraisal or a copy of the appraisal summary by sellers. The modified policy recommends not to release full appraisal to the seller until the transaction has been completed, which is consistent with RCA's Public Records policy. For sellers of HANS/JPR properties, the policy allows staff to release a copy of the appraisal summary to sellers at the time an offer is made. This is appropriate as the Plan allows that a joint appraisal instructions be prepared for HANS/JPR acquisitions. On all other acquisitions, it is recommended not to release a copy of the appraisal summary until the purchase and sale agreement has been signed. The policy provides staff maximum flexibility while negotiating the purchase price with the seller and to ensure effective use of RCA's financial resources. This is public agency practice consistent with the County and the cities' policy.

Ed Sauls commented that much of the policy has been discussed with the building industry representatives and the idea makes sense. Unfortunately, there are languages in the land acquisition policies that are problematic that had not yet been reviewed. Specifically, under Section 1.03 in the land acquisition policies wherein it states, "...it is the intent of the RCA to pay a fair market value for property acquired to assembly the Reserve.....however..." It is not really clear under what circumstances it may or may not be acceptable to pay less than fair market value. In practice, they have great experience in negotiating other prices. His concern is that this written policy begins to set the stage that RCA has a lot of opportunities to *not* pay fair market value. The policies in the Plan state to compensate for fair market value. They do not want the unintended consequences of the policies to be adopted. Although the policies as written were well intended, it sets the stage for confusion in the negotiations at some

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future date for someone to suggest that the agency no longer have to pay fair market value. There are other cases where it sets timeframes for reports on hazardous materials. These are standard part of the process for buying and selling properties but it suggests that such a report is only good for a certain period of time. It is unclear who the responsible party to pay for the report, such as a hazardous material Phase I study, if it has to be reordered as it takes three years for acquisition. There is a certain timeframe to which this is not an efficient use of funds. With further review and some minor change, the policies could be made clear. It is incumbent upon the RCA Board to make sure that the policies are very clear if it determines to purchase land less than fair market value.

Joe Richards noted that the policy being proposed today relates to the release of full and summary appraisal. Mr. Saul's comments, in terms of fair price for a property, relates to the HANS/JPR process. There are no disagreements since staff bases its bid in accordance to the appraisal. However, for voluntary or willing sellers, it provides staff more opportunities and it allows greater latitude for negotiations. The proposal does not change the intent to RCA's land acquisition policy but rather makes it more consistent with the policy endorsed for the permittees. He recommended approval of the proposed policy regarding release of appraisals. Staff will be glad to work with Mr. Winckel and Sauls regarding their concerns for additional modification to the policy.

Jim Hyatt, as a point of clarification, stated that the Policy 1.03 states "...fair price..." and not "fair market value".

Ed Sauls that he may have stated "fair market value" and Section 1.03 does not specifically state that and this is one of the points of confusion. It is not entirely clear that Section 1.03 does not apply to the HANS process which uses fair market value. However, the proposed action to further review the points with staff, will clarify those points.

M/S/C (LOWE/ASHLEY) to approve the modification of Policy 1.03 of the RCA and Acquisition Policies to add guidelines or distribution of Appraisal Summaries to property owners with the understanding that staff further discuss the points made by Mr. Sauls and Winckel.

8.2 RECOMMENDATION TO REVISE THE RCA CRITERIA REFINEMENT POLICY

Joe Richards stated that the proposed revision is to make the RCA criteria policy consistent with the Board-endorsed template or model policy for the permittees. There is no change in the intent of the policy.

In response to Bob Buster if this would be considered as an amendment, Joe Richards said that this is strictly for criteria refinement which involves release of certain lands for development when those lands are replaced.

Ed Sauls requested that RCA Board delay action as there are two issues for clarification: 1) It is not exactly clear when the criteria refinement is approved; and, 2) There is a process in the policy that suggest that if is appealed to the Board, it becomes final. Delaying the action would provide additional time to look at those two issues in the context of criteria area refinement policy issues.

M/S/C (LOWE/BUSTER) to approve the revision to the RCA Criteria Refinement Policy as shown on Attachment 1 with the understanding that staff further discuss the points made by Mr. Sauls.

8.3 APPROVAL OF PURCHASE AGREEMENT WITH THE CITY OF RIVERSIDE FOR ACQUISITION OF REAL PROPERTY

Brian Beck advised the RCA Board that the City of Riverside is in the process of acquiring approximately 125 acres located adjacent to Tequesquite Park. There is a 66-acre portion of the property which is described to be for habitat conservation which will contribute to the MSHCP reserve assembly. The City's appraised value of the 66 acre portion is \$2,154,750 or \$32,500 per acre and this is confirmed by RCA's appraisal. Staff recommends acquisition of the property in two installments. The first installment of \$750,000 will be in January 2008 using TUMF funds and the second installment of \$1,404,750 in January 2009 using RCA MSHCP funds.

Charles White asked about authorization to use TUMF funds for the acquisition and Tom Mullen stated that Measure A authorizes the use of TUMF funds for mitigation purposes.

Dom Betro thanked RCA staff for their work on the acquisition. He pointed out that there are very few properties in the City of Riverside that could qualify for conservation preservation and none is more sensitive and appropriate for RCA than this property. This is not only

an appraised price but an extremely fair price. He noted that leveraging in terms of conservation preservation is seldom talked about. Mayor Ron Loveridge, Supervisors Bob Buster and John Tavaglione, and Dom Betro have participated in the Santa Ana River Parkway, which is a part of the Crest to the Coast Trail Project and comprised of three counties. This acquisition compliments the Trail project and it will create an amenity for the residents of Riverside County for many years to come.

Bob Buster added that this sets a good precedent for acquisition of even more lands along the Santa Ana River Corridor. The assets of the Santa Ana River are just being uncovered in appropriate ways. The area next to the Hidden Valley Wildlife Refuge in the La Sierra area of the City of Riverside also has potential. To this extent, some of the cell criteria in and around the City of Riverside should be reviewed because of some unexplained questions about potentialities of land in areas such as the Box Springs area. He appreciated this effort and supports the acquisition.

In response to Robin Lowe's question as to which agency will manage the acre property, Brian Beck responded that RCA will manage the portion of property acquired for the MSHCP and City will manage the remaining property.

Dom Betro talked about Proposition 80, which is a \$35 million bond from the State. This year's funding was allocated to the Prado Dam area to complete the Trail. He hopes that by assembling the land the City of Riverside and RCA will be placed in a position at some point and time to compete for the funds to create a natural amenity for the residents on the properties.

M/S/C (BETRO/WHITE) to direct staff to prepare a purchase agreement with the City of Riverside to acquire approximate 66 acres for \$2,154,750 with the City of Riverside for the property shown on Attachment 1.

9. EXECUTIVE DIRECTOR'S REPORT

9.1 DISCUSSION AND POSSIBLE ACTION REGARDING NAMING OF THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN RESERVE

Tom Mullen recalled that in 1999 Richard Lashbrook, Director of the County's Transportation Land Management Agency, was tasked by the Board of Supervisors to spearhead the transportation and habitat land use plan with habitat being the underpinning for mitigation for transportation and housing. He accomplished this effort within 36

months by presenting to the Board of Supervisors and the Riverside County Transportation Commission with a budget plan. This was an incredible feat recognizing that a General Plan had previously been adopted in 1992. In addition, this was the largest habitat conservation plan in the nation's history done by a local government, overlaid with a new transportation plan for highways and arterials. Mr. Lashbrook accomplished this by bringing a diverse group of individuals that include property owners and environmental groups to consensus. Because of this remarkable achievement, he is recommending that the reserve be named the Richard K. Lashbrook Reserve and that a proclamation be presented at the RCA Board's next meeting. He noted that this does not preclude naming of other certain parcels in the future.

Marion Ashley said that Richard Lashbrook worked on the effort tirelessly. However, there was another individual who has worked along side Richard Lashbrook and this individual is Tom Mullen. Tom Mullen equally deserves to be recognized and perhaps the assembly of reserve should be named the Lashbrook-Mullen Reserve.

Robin Lowe and John Tavaglione concurred with Marion Ashley that Tom Mullen is worthy of such recognition as he was the public official who decided to take on this very difficult plan.

M/S/C (ASHLEY/LOWE) to direct staff to bring back a report, including the proposed name, subject parcels and any other information to the RCA Board.

10. LAND ACQUISITION UPDATE

Ken Graff, Director of Land Acquisition and Management, advised the Board that since its last meeting, five additional properties (80.45 acres) closed escrow and RCA has a total of 39,432 acres to date.

11. FUTURE AGENDA ITEMS

There were no agenda items requested for future meetings.

At this time, Vice Chairman Montanez adjourned the meeting to a Closed Session.

Steve DeBaun, Legal Counsel, announced that the Closed Session item relates to a communication received from the Center of Biological Diversity.

12. CLOSED SESSION:

**Conference with Legal Counsel: Anticipated Litigation
Exposure to Litigation, Pursuant to Subdivision (b) of Government
Code Section 54956.9: One Case**

At 1:59 p.m., the meeting reconvened. There were no announcements from the Closed Session item.

13. ADJOURNMENT

The next meeting of the Western Riverside County Regional Conservation Authority Board of Directors is scheduled to be held on Monday, November 5, 2007 at 1:00 p.m., in the Board Room of the County Administrative Center, First Floor, 4080 Lemon Street, Riverside, California, 92501.

Respectfully submitted,



Honey Bernas
Clerk of the Board