



MEETING MINUTES

1. CALL TO ORDER

The meeting of the Western Riverside County Regional Conservation Authority was called to order by Chairman Scott Miller at 12:33 p.m. Monday, April 7, 2014, in the Board Room of the Riverside County Administrative Center, 4080 Lemon Street, Riverside, California, 92501.

2. PLEDGE OF ALLEGIANCE

Chairman Miller led the RCA Board Members and meeting attendees in a flag salute.

3. ROLL CALL

Board Members/Alternates Present

Marion Ashley, *Riverside County District 5*
Kevin Bash, *City of Norco*
Ben Benoit, *City of Wildomar*
Roger Berg, *City of Beaumont*
Tim Brown, *City of Canyon Lake*
Debbie Franklin, *City of Banning*
Tom Fuhrman, *City of Menifee*
Jeffrey Hewitt, *City of Calimesa*
Kevin Jeffries, *Riverside County District 1*
Natasha Johnson, *City of Lake Elsinore*
Verne Lauritzen, *City of Jurupa Valley*
Andy Melendrez, *City of Riverside*
Scott Miller, *City of San Jacinto*
Shellie Milne, *City of Hemet*
Jesse Molina, *City of Moreno Valley**
Eugene Montanez, *City of Corona*
Harry Ramos, *City of Murrieta*
Adam Rush, *City of Eastvale**
Jeff Stone, *Riverside County District 3*
Mark Yarbrough, *City of Perris**

Board Members Absent

John Benoit, *Riverside County District 4*
Maryann Edwards, *City of Temecula*
John Tavaglione, *Riverside County District 2*

**Arrived after start of the meeting.*

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4. PUBLIC COMMENTS

At this time Chairman Miller announced that Agenda Items 11 and 12 are pulled from the agenda. However, members of the public would be allowed to speak on the items during general public comments.

Adam Rush arrived at 12:35 p.m.

Mark Yarbrough arrived at 12:35 p.m.

Jesse Molina arrived at 12:40 p.m.

MaryAnn Miller of Murrieta, California, presented oral and written testimony, as well as a Public Records Act request. She conveyed her thanks to all, especially Honey Bernas for her efforts to answer her questions. Nevertheless, she is still trying to grasp and understand RCA's intent, process, and practice regarding acquisition of properties from small, private property owners. With regard to her public records request in the last meeting regarding the willing seller, "the secret list," her request was denied on the basis of ongoing negotiations and incomplete land acquisitions and divulging the information would somehow endanger the RCA's negotiation and ability to acquire the lands. In accordance with the Public Records Act, such information would be available for the public in order to know the number of people that on that list, the acreage that those people are holding and the expected time period that those people will be able to receive their funds from the RCA. She also requested documentation on the different costs that have been billed her by RCA. Lastly, there was a reference in an e-mail about a Wildlife Agency meeting on June 21, 2012, wherein her project was on the docket, but she was not notified of the meeting, and she requested a copy of the minutes. *(The submitted written testimony and requested list of documents/information are on file at the RCA office.)*

Chairman Miller advised that the Executive Director will respond, as he does every month, to those that provide public comments during the previous month. Chairman Miller asked Ms. Miller if she received a letter with a list of properties from the RCA with regard to her request. Ms. Miller stated that she received a list and tried to contact Ms. Bernas to ascertain what the list was. Chairman Miller clarified that her request was not denied, and the list she received was the list that she had requested. Ms. Miller then asked if the willing seller list was a different list than the HANS Non-Development Willing Seller list. Charlie Landry stated that the "Willing Seller List" are property owners who contacted RCA wishing to sell their property. The Non-Development HANS list currently contains one property, which is being purchased by RCA.

Chairman Miller advised Ms. Miller that she was given additional time to speak on Agenda Item 11.

Roger Berg asked if the public was able to speak on Agenda Item 11 during general public comments and not when the item is taken up. Steve DeBaun, Legal Counsel – Best, Best & Krieger, responded that RCA has to allow the public to speak on these items.

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Kevin Bash asked if it was appropriate for the public to speak under general comments about the two items that were pulled. Steve DeBaun, legal counsel, responded that the RCA has to allow the public to speak on these items.

Kevin Jeffries stated that for purposes of addressing the potential Brown Act violation that occurred on Item 11, the disputed policy, as to whether or not anyone with an economic interest whether a conservation agency or an individual land owner, those items must be addressed and resolved. The Brown Act violation must be cured today somehow in order for this body to even bring back that item in the future. There are unresolved issues on that as a result of the e-mail sent on Sunday morning at 1:30 to all members of the organization excluding one, and he believes that this body has an obligation to resolve that issue here and today.

(M/S) (JEFFRIES/BERG) that Item 11 be allowed to be discussed by the full Board and override the Chairman's position.

Chairman Miller called upon legal counsel to opine on whether or not the Board has the Authority to override the Chair to pull the item. Steve DeBaun responded that under the Bylaws, the Chairperson is entitled to preside at all meetings of the Authority. The Board has provided the Chairman with the authority to determine matters that are on the agenda, the order, and whether items are considered or not. Legal counsel does not believe that the decision of the Chairperson to not consider an item is something that the Board can vote on. The Board could place the item on the agenda for a subsequent meeting. He iterated that under the Bylaws, the Board appears to have given the Chair the authority to preside over meetings.

Tim Brown read from the Open Meetings and Local Legislative Bodies, "The Brown Act" from the office of the Attorney General of California states that specifically The Act punishes attendance by a member of a body at a meeting where action is taken in violation of The Act and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled. He asked if there was a Brown Act violation and if discussion is to continue on the issue, is the member allowed to be in attendance of this meeting.

Steve DeBaun responded that legal counsel has reviewed the Chairman's e-mail that was sent out over the weekend responding to a member of the public and has researched cases and Attorney General's opinions that discuss whether or not a single e-mail that is not substantively responded to can constitute a Brown Act violation. This is an evolving area of the law, but based on the current thinking on this, a single e-mail that is not responded to substantively, even if it goes to the full Board, does not constitute a Brown Act violation. If that e-mail had been responded to and resulted in further communication, then there would definitely be a Brown Act violation. The single email, in and of itself, did not constitute a Brown Act violation.

In response to Kevin Jeffries' question if legal counsel was aware that he responded to the e-mail, Steve DeBaun said he was aware of Mr. Jeffries' response. In legal counsel's

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opinion, the response, which was a request not to have any more discussion regarding the email, was not a substantive discussion of the subject matter of the email.

Kevin Jeffries asked legal counsel if the Chairman serves at the pleasure of the Authority, and Steve DeBaun responded that the Chairman serves at the pleasure of the Authority. At this time, Mr. Jeffries made the following motion:

(M/S) (JEFFRIES/BERG) to vacate the Chair.

Jeff Stone stated the item to remove the Chair is not on the agenda and that it needs to be agendized.

Steve DeBaun, legal counsel, confirmed that removal of the Chairman is not an item on the agenda. The matter could be agendized for the next meeting or a Special Meeting. The Bylaws do provide for the removal of a Chair, but the matter would need to be agendized for a subsequent meeting.

Shellie Milne stated that since there appeared to be a lot of people present to speak on Agenda Item 11, and she and her City were also concerned about this item. She suggested that the Board move to table this item until the next meeting. In the meantime, she supported allowing the public to speak, hear their questions or concerns, and bring the item back at a later date.

Harry Ramos stated that he was confused about the process in respect to Supervisor Jeffries' request. He was under the impression that if two-thirds of the body were to vote, that they can add an item to the agenda for this meeting. Jeff Stone stated that urgency matters can be added to the agenda. Steve DeBaun advised that The Brown Act does allow the Board to add an item that requires immediate action to the agenda upon a two-thirds vote. There would have to be a finding that this action constituted an item that required immediate action and arising subsequent to the agenda. The item rose subsequent to the agenda, but the question would be if the matter required immediate action.

Roger Berg stated that he did not understand why the matter could not be discussed and the public allowed to speak. The item can be continued. He stated there seems to be a reason the RCA is trying to silence the public and Board Members on this matter. He agrees with Board Member Jeffries that something does not seem right. He expressed his displeasure with what was going on.

Kevin Jeffries stated, as a pointed of clarification, that is why he has moved to vacate the Chair. The Board cannot override the Chair so if the Board removed the Chair, then the matter could be discussed, which appears to be the only way.

Andy Melendrez stated that at this point, it would seem unconventional to have an entire Board get an e-mail on one particular item. He believes that clarification is needed on this particular matter before the Board can move forward on the item. Therefore, he would second the motion to continue this item for a later date.

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Chairman Miller stated that based on the discussion, Items 11 and 12 are pulled from the agenda and the public is allowed to speak on those items during general comments.

In response to Ben Benoit's call for point of order regarding Kevin Jeffries' motion, Chairman Miller stated that there is a motion and a second on the table to remove the Chair; however, legal counsel stated that there cannot be a motion on a non-agendized item. Legal Counsel advised that in order to avoid a Brown Act violation, there would first need to be a motion that the item that is being requested to be placed on the agenda requires immediate action by the Board of Directors. If it is determined that the item requires immediate action, it will require a two-thirds vote of the Board Member present to pass to add the item to agenda. Chairman Miller stated that the motion that has been presented does not qualify as a motion at this point.

Tim Brown called for point of order and stated his belief that the action requires immediate attention. According to the Open Meeting and Local Legislative Bodies, etc., written by the California Attorney General, states that the term "...action taken is to find, etc., the fact the decision is tentative rather than final does not shield participants from criminal liability, participants meaning the RCA Board of Directors, if any action is taken, whether action within the meeting of the statute was taken would be a factual question in each case. He said that if there is any action taken, and the Board participates in discussions, the members would be guilty of potential criminal liability. Tim Brown stated he believed the issue deserves more attention. Chairman Miller responded that, as stated by legal counsel, in order for that action to be taken, there would have to be a motion, second and 2/3 vote on that item.

Kevin Jeffries addressed legal counsel stating that there was a statement from the Chair's e-mail that would impact anybody who desires to testify on Agenda Item 11. "In the interest of avoiding a conflict it is vital to ensure that those influencing the decisions on this matter have no economic interest in this matter nor represent those with an economic interest in this matter" which means that on Item 11 no member of the public, member of the RCA Board who represents a conservation agency which owns land, or an individual land owner may testify on Item 11 according to the Chair's policy.

Kevin Jeffries asked how the Board is able to change the Chair's policy if the Chairman will not recognize efforts to bring this item for discussion. Steve DeBaun responded that he was unclear as to what the Chair meant by that statement; however, the Board has the obligation to consider the public testimony of anybody that appears before it. The Chair's subsequent e-mail made it clear that any and all members of the public who appear before the Board will be able to testify. Legal counsel agreed that the statement by itself without the clarification that was provided was incorrect. Kevin Jeffries asked how that clarification is provided, and legal counsel responded that clarification was provided in the form of the e-mail that was sent to those who received the initial e-mail. Kevin Jeffries asked if legal counsel agreed that both e-mails need to be entered into the record so that the public record adequately reflects the initial policy and the revised policy, and Steve DeBaun responded that he had no objection to the e-mails being sent to the record. It was not a formal policy of the Authority; it was a statement by one Board Member.

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Marion Ashley asked if Agenda Items 11 and 12 could be considered and then continued. Legal Counsel stated that the Board could definitely consider the items, but it was up to the Chair in his authority.

Tim Brown stated that if even a decision to eliminate Items 11 and 12 from the agenda is being made, it is his belief an action as defined by the Brown Act and that attendance of a body at a meeting where an action is taken, such as eliminating Items 11 and 12 from the agenda without public notice, would create a liability. Tim Brown stated that if that action is taken, he will excuse himself from participation on the RCA Board as he believes it is in violation of the Brown Act.

Jeff Stone stated that it is a routine practice on the Board of Supervisors agendas to delete items all of the time. The public is allowed to comment, but it is announced at the beginning of the meeting that the items are pulled off of the agenda and the public is allowed to speak. The public is made aware that the Board will not be deliberating on those issues. The Board's legal counsel has stated that while the e-mail probably was not well thought out and being sent to everyone, in his opinion, does not constitute a Brown Act violation. Therefore, it is not for the RCA Board to decide whether or not a Brown Act violation occurred. The Chair has the right to pull items off of the agenda as he or she sees fit. If the RCA Board does not like the policy, then he suggested that an RCA Board Member put an item on the agenda to revise the Board Policy to allow the RCA Board to override the Chair. One of the reasons the Board selects a Chairman is to organize the agenda and to decide which issues are to be heard by the Board and can be pulled at any time as long as the Board gives the public the right to speak on those issues.

Tim Brown disagreed and reiterated his belief that it is a Brown Act violation. He stated again, that the Act reads, "punishes attendance by a member of a body at a meeting where an action is taken in violation of the Act." He stated that it was fairly clear that attending a meeting where a violation of the Act occurs, is the responsibility of each Board Member to decide and failure to make the right decision may result in criminal liability according to the Act.

Chairman Miller stated that based upon what legal counsel has presented today in regard to this item, a Brown Act violation has not taken place.

At this time, Tim Brown announced that he no longer considers himself a member of the RCA Board and left the dais.

Eugene Montanez applauded the Chairman's efforts to allow the public to speak and asked that the rest of the RCA Board allow the public to speak on the items. Chairman Miller thanked Eugene Montanez.

At this time Chairman Miller continued the meeting and received the following public comments.

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Agenda Item 11 – Resolution No. 14-003, Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Adopting a Non-Development HANS Policy

MaryAnn Miller of Murrieta, California, stated that the item proposes to impose new restrictions on private property owners. She requested a staff report that provides discussion regarding the necessity for new proposed restrictions on private property owners, the negative impact study, and the resultant financial consequences to private property owners. She asked what the effect is on private property owners whose land is desired by the RCA and who seek to receive fair compensation. If property owners lands are not purchased due to lack of funding, which has been specified in the Plan, they may be released from further MSHCP land requirements. She asked if there are two lists: 1) Non-Development HANS; and 2) The general public willing to be on a Willing Seller List. She said there seems to be confusion in her mind as to how one gets around all of this. She quoted guidelines Section 6.1.1.B, "Completion of Acquisition of Non-Development HANS Application..." and goes on, the title is "Completion of Acquisition or Submittal of Development Application if Funding is Not Immediately Available. The guidelines state that if funding is not available in the timely fashion that is prescribed by the HANS process: \$100,000 one year to pay; \$200,000 two years to pay; \$300,000 three years to pay, notice should be given and the property removed from the MSHCP.

Agenda Item 12 – Non-Development HANS Funding Level for Fiscal Year 2015

- A. MaryAnn Miller, of Murrieta, California, requested documentation of the accounting for the following items: 1) The 3% Non-Development HANS fund, including annual deposits to the fund and their sources; 2) all disbursements from the 3% funds, including initial property owner contact date, property owner name, parcel number, contact information, acres acquired, negotiated total purchase prices, and final acquisition date; and 3) the method that is used by the RCA and the County for the transfer of funds between the County, the Transportation Commission, in the 3% funding, i.e., RCTC funds used the Busch acquisition, as well as the credit for the Keller Homes. She requested the total pending liability to be paid from this 3% fund. Mr. Landry has indicated that there is only one person on the HANS list. However, there are quite a significant number of property owners on the Willing Seller List. If they are included in the 3% acquisition fund, why aren't they informed that they can file a Non-Development HANS application. It would benefit a small private property owner who cannot develop their property to come in and have all expenses paid and their property purchased under the Non-Development HANS process within specified time periods or released from further MSHCP. Having a separate list and not informing the property owners is troubling to her. She asked for a complete accounting for a 10 year period since the inception of the Plan. *(The submitted written testimony and requested list of documents/information are on file at the RCA office.)*
- B. Grace Kaelin of Hemet, California, advised that she is part owner of a 25.26 acre parcel of land in west Hemet. She represents five property owners. They are well aware of the Multiple Species Habitat Conservation Plan and have been since 2002 when they had representation at the meeting in Oregon that was the beginning of it

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all. They are aware of the rules and are urging the Board to vote no if this matter comes to the floor. She made the following points: 1) The Florida Avenue corridor is prime real estate, designated as commercial/mixed-use by the City of Hemet's General Plan. Placing the Florida Avenue corridor properties in the Multi-Species Habitat Conservation Plan designation has devalued all of the properties and damaged the City's ability to develop economically; and, 2) If the policy is passes, the burden would again be placed on the property owner. All property owners have the right to be processed according to the original MSHCP guidelines. If the RCA passes Agenda Item No. 11, it will be breaking the rules and guidelines of the original MSHCP intent. The five property owners do not see a reason to change what was originally intended. She stated that none of the property owners are willing sellers. She clarified her statement, saying that the term "willing seller" is a legal term that is in the paperwork that a property owner must sign in order to be able to be taken out of the HANS process, which does not mean that the property owner is happy and really is willing. The City of Hemet is not able to get the development along the Florida Avenue corridor which would benefit the City financially for a long time. The development could have been in place already had they not been under the MSHCP designation. As long time RCA Stakeholder Committee attendee, she believes that she believes that this agenda item should have come to the Stakeholder Committee prior to being presented to the Board. She believes that this is a unilateral move by RCA without the benefit of the Stakeholders Committee discussion. As a taxpayer and stakeholder, she believes it is a misuse of funds to hire an attorney. In conclusion, Ms. Kaelin thanked the Board for the opportunity to speak and offered a copy of her testimony to anyone interested.

- C. Linda Krupa, Hemet City Council Member, stated that in October 2012 the process of a minor amendment eliminating the Non-Project HANS aspect of the MSHCP was before the Board. The RCA Board went into closed session. The Board then voted unanimously to instruct staff to rescind the Minor Amendment and form a subcommittee including the property owners to deal with this aspect of the Plan. While the item before the Board today is somewhat different than the original Minor Amendment proposed in 2012, it constitutes the same thing, a basic, fundamental change in a piece of the MSHCP which affects stakeholders, which are the property owners. This matter should come before the Stakeholders Committee for discussion. She understands that funding is an issue, but if the federal government does not live up to their obligation to fund the Plan, it will not be possible to acquire properties at fair market value. Putting the onus on property owners is not the way to go. She urged the Board keep the Plan intact, involve the Stakeholders if modifications are needed, and to vote no on the item.
- D. Jane Block of Riverside, California, thanked the Board for the opportunity to speak. She served on the MSHCP Advisory Committee and was involved with every step and issue. A change in the status of zoning a property is appropriately an issue that should be considered by the entire community for the benefit of the current County residents and the residents of the future and species of the future. The RCA has established a reputation for a science based methodology. She urged the Board to

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please continue that excellent philosophy. Riverside County stands out due to the Board's actions and the fact that they base their decisions on science. While the Non-Development HANS was part of an effort to address landowner concerns, it was never a significant part of the Plan. It was always very limited in what it could do. In her view, it was not well conceived because being put on a waiting list for acquisition creates false expectations and forces a public agency to prioritize public funds unwisely rather than solves problems. Whatever one may think of the original provision, it is time to fix it. The proposal today keeps faith with the original intent by setting achievable and rationale aims for small properties. She urged the Board to move forward.

- E. Tami Wilhelm of Hemet, California, stated that many members of the Board may support the proposed amendment and the changes. She understands that funding has been an issue and the RCA is looking for ways to solve some problems. Many of the Board Members have said to her, and she agrees, that the MSHCP has done much good in our County by making so many road and infrastructure projects easier. She agrees and is genuinely supportive of this Plan's intent. The adoption of the MSHCP was supposed to be a good deal for everybody. The County and cities got roads and infrastructure, the Wildlife Agencies got plants and fairy shrimp, developers got a fast track through the planning process, and landowners of any size were guaranteed a fast and fair process regardless of when they acquired their land. A process that would, on request, either free them from the MSHCP allowing them to sell with assurances or in a timely manner to be paid fair market value for their land if it was deemed necessary for the reserve. This was fair. To those who suggested that landowners who bought land within the MSHCP after its adoption should not have land owner protection under the Non-Project HANS process because, "they should have known better than to buy within the Plan," such an assertion is a very slippery slope. If RCA believes this assertion, they must also believe that the MSHCP was designed to be bad for property owners in the first place, and by passing this amendment to the Non-Project HANS, are willing to exacerbate that injustice. If the RCA continues to prove this assertion through such deeds, RCA will confirm that it is a monopoly buyer and send landowners circling back to the age old argument that the MSHCP created a massive taking of private property. The rules were designed to avoid these slippery slopes. The MSHCP was designed to treat everyone fairly. It is in fact designed to treat everyone fairly. However, the RCA is so desperately underfunded that the Plan is being implemented unfairly and the rules are being cleverly flexed and bent to serve what some now refer to as the greater good. Ms. Wilhelm urged the Board to vote no on Agenda Item 11, refer it back to staff and direct them to work with the Stakeholder Committee to bring forward a proposal, drafted by consensus, that preserves the good faith needed to secure the funding that is really deserved. Ms. Wilhelm thanked the Board for their time.
- F. Ed Sauls, of The Sauls Company, stated that the closest he can relate this matter to is his relationship with his wife. Where in order to survive in that relationship, they had some interesting conversations and some strong miscommunications. He is sure that there were times when his wife was absolutely furious with him, and he didn't have a clue why. It was probably something he said or did that he thought he was

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just doing what he was supposed to be doing, and nonetheless, she was furious. He stated he believes that is similar to the present situation. He is frustrated at the relationship with the current administration, as there is not an ability to sit down and solve problems, nor is there a trust relationship with the organization that existed in the past. He expressed his desire to make the Plan successful and iterated that communication is key. He stated that the biggest problem is a lack of funding. Taking action on this item will upset the people that were made promises to in adopting this Plan. His biggest point to the RCA is that if you take this action on this agenda item, you really upset the people you made promises to in adopting this Plan. RCA needs their support to obtain funding. He respectfully disagreed with Mrs. Block's perspective. The environmental community was promised 153,000 acres. The landowners were promised a due process and fair market value. October 12, 2012, RCA tried to cut half of the HANS process out, which would equate to going to the environmental community and saying we are not going to give you 153,000 acres. We don't have enough money so we are only going to give you half of that. The Board did not approve that action on October 12, 2012, and the item before the Board that proposes to cut less than half because it is not affordable. That was a promise that was made to the environmental community and the Wildlife Agencies that the RCA needs to keep. The RCA needs to keep the same commitment and promise to the landowners. He asked the Board to reject the matter and let the Stakeholder Committee address funding and work on the relationship.

- G. Lori VanArsdale, Hemet, California, stated that as a former City Council member for 16 years, she spent a lot of time going through building the foundation and put a lot of effort and had a lot input into the City of Hemet's buy in of the MSHCP. One of the most important things for the City was to treat people fairly. She was part of the breakfast in Washington, D.C., when Tom Mullen brought this idea before the group. She believes it is important to build on that foundation of fairness for small and large property owners. She was present in October 2012 when this matter was brought before Board and she was disheartened to think that time can dilute an agreement regarding fairness to property owners which was so important and a huge foundation laid for this process. She understands lack of funding, but RCA needs to maintain having a fair process. She encouraged the Board to keep their word.
- H. Dan Silver, Endangered Habitats League, stated that he served on the Advisory Committee. The Development HANS provides fixed guidelines for acquisition of properties which have development applications. This is a huge response to land owner concerns and originally arose from frustrations with the old K-Rat Plan. If HANS acquisition fails, the property must be amended out of the Plan even if it is essential. HANS, therefore, places your very permits at risk in order to address landowner interests. This is an amazing commitment and has absolutely no counterpart in Los Angeles or San Diego Counties, both of which have land use regulations analogous to the Criteria Cells. However, the Non-Development HANS is extremely different. In his view, it was never an important or pivotal part of this Plan because that is the reality. When adopted, it was realized that it could never really do very much, whatever the intent was. All it can do is put people on a waiting list of indeterminate length. It does not provide a timeline. It was ill-conceived at the

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outset, but it exists. It has been very little used. The problem is that it creates problems. It puts the RCA, a public agency, in the untenable position of being forced to prioritize properties that are, in fact, not priorities. It is a system that is simply open to gaming and manipulation, and in Mr. Silver's view, it is simply bad public policy to have a program that is cosmetic, that is illusory, that does not provide real benefits. No matter what one thinks about it, he views this proposal as actually keeping faith. It says let's set an achievable aim and focus on small properties that have been in ownership since Plan adoption. Let's achieve the goal of actually doing something for these people. It is far better to actually acquire some subset of properties with a transparent and achievable system of criteria, rather than maintain what in reality is a dysfunctional fiction from day one. Although there are different perceptions, he is always willing to accept an olive branch and discuss the matter in any forum, but he sees this as an effort to actually fix something which has never worked from the start.

At this time Kevin Jeffries called for point of order. In reviewing the Bylaws, Article VII, Duties of the Officers, the Chairperson lists three particular items: 1) Preside at all meetings; 2) Call special meetings; 3) appoint committees. That is the authority of the Chair. In Article VIII, Meetings, under Section A, Agenda, it states in the affirmative that an individual member may request an action item be considered, and unless it is not on the agenda, it would be taken up. If it is not on the agenda, it would be referred to the next meeting. Therefore, as the Bylaws affirmatively give the members individual authority to bring items to the Board, and unless it is not an agenda item, there is no affirmative authority for the Chair to not recognize and take action on an item that is moved to be considered by the membership. Therefore, unless the Chair can cite a specific case under the Bylaws that gives him the Authority to deny what is explicitly stated in the Bylaws, Kevin Jeffries therefore moved that Item 11 be eligible for consideration and vote today.

Chairman Miller asked legal counsel to respond. Legal counsel asked for clarification on the section and subsection Kevin Jeffries was referring to. Kevin Jeffries stated that this item is listed on the agenda, and he has requested and moved that the item be considered. There is no empowering authority under the Chairman's authority to deny that. He is not aware of any deliberative body that does not allow the body to overrule the Chair, at least not in this Country. Legal counsel referred back to the provision and the very affirmative statement under Duties of the Officers presiding at all meetings. In legal counsel's opinion, that section is not intended to overrule the authority of the Chair to preside over the meetings. Kevin Jeffries stated that it simply states the Chair shall preside. It does not state that the Chair has supreme command authority over all members and no member may make a motion to overrule the Chair. There is no explicit authorization for that. In legal counsel's opinion the provision under Article VIII is intended to allow new items to be placed on a subsequent agenda, recognizing that the section may not be worded as well as it could be. Legal counsel was of the opinion that the express language in Article VII defines the role. While understanding Kevin Jeffries reading, and noting the language could be clearer, because it is not clear, the express language on presiding over the meetings of the Authority would control. Kevin Jeffries responded that under parliamentary procedure, Roberts Rules of Order, and Masons, all of those have provisions that those who preside over meetings must recognize motions from the body and the body may override the Chair. There are no governing documents out there that allow a Chair to completely ignore the will of the membership if it is an agenda item. Steve DeBaun responded that he would need

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review the matter further in order to answer. While he understood Kevin Jeffries position, he believes the reasonable interpretation based on the language in Article VII.A.1. is that the Chair has the authority to preside over the meetings of the Authority. As to what other agencies allow, legal counsel would have to review further. Kevin Jeffries stated that he just advised his colleagues that even in the California State Legislature, the Speaker of the Assembly and the Speaker of the Senate do not enjoy the authority that counsel is saying the Chair has with this body. It is not recognized in the State of California legislature that the Chair can ignore the membership's motions when they are duly put on the floor for consideration. Kevin Jeffries stated that he has never seen this happen before with anybody in the State of California.

Chairman Miller stated that as elected officials, members have to rely on the legal advice given by those representing the agencies that member work with. Chairman Miller stated that based on his understanding from RCA legal counsel is that the Chair has the authority to pull an item from the agenda. Based on that, the Chairman moved forward.

Chairman Miller announced that Cindy Domenigoni, Stakeholder Member, called to enter a public comment into the record under Agenda Item 11. She requested that the Agenda Item 11 Board be continued.

Marion Ashley asked when this item will come back to the Board and if will be agendized for the next meeting. Legal counsel advised that an item can be placed on the agenda in several different ways. It can be placed on the agenda by the Executive Director, the Chair, or any member of the Board.

At this time, the following RCA Board Members excused themselves and left the dais: Jeffries, Berg, Fuhrman, Molina and Rush.

Natasha Johnson stated that the Board is not getting clear direction from legal counsel in that they need to research this matter; therefore, she was not comfortable moving forward until there is some kind of clarification. Something was brought up by a member of the Board, and she did not feel the Board could just move forward without clear direction.

Steve DeBaun, in order to clarify, stated that Kevin Jeffries was referring to whether or not this was a unique situation and there was a Bylaw that was unusual or different from any other policy. Steve DeBaun advised that he does not have knowledge of that. As far as the interpretation, while he understood the provision that Board Member Jeffries brought up could lead to another interpretation, legal counsel is of the opinion that the language in Article VII.A.1. which provides that the Chairperson has the authority to preside over all meetings is clear and provides the authority of the Chair to pull the item from the agenda. Chairman Miller asked Natasha Johnson if legal counsel's response was sufficient. Natasha Johnson replied that she did not think it was definitive, but going forward is the decision that has been made by legal counsel and the Board has to be comfortable with it.

Kevin Bash stated, for the record, that he was very uncomfortable. He believes what trumps all is transparency, and he feels very uncomfortable. He would not want to remove the Chairman, but he is the key person to this and the one blocking moving forward. He was unsure how to proceed.

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Shellie Milne stated that she is uncomfortable with the Chairman not recognizing how uncomfortable the Board is with this whole action and not being in tune to it and just moving forward allowing the Board to vote or make decisions. She suggested not pulling the item from the agenda and just moving forward with the item. The public has been heard from. She is uncomfortable with the Chairman, hearing the many issues people have and given how uncomfortable the Board is, and the Board still sitting in the same place.

Verne Lauritzen stated that items are continued on agendas all of the time, which is not extraordinary, which also means that Resolution No. 14-003 will not be adopted in its continuance until it comes back to the Board for consideration. What is puzzling and what he has not heard today is any good, valid or specific reason for the continuance. Normally, when agenda items are continued, there is an explanation or reason for its continuance, which makes him feel uncomfortable.

In response to Verne Lauritzen, Shellie Milne stated that the Board deserves a continuance if not an outright vote on the item in that a lot of people from the City of Hemet, which this effects greatly right now and will affect many people down the line, are present. The Stakeholders have not been contacted. There is no transparency. Even the City Planning Director is uncomfortable. They discuss the agendas prior to the RCA meetings so that she can obtain the City's point of view. As far as the City of Hemet is concerned, this action is just not acceptable right now.

Verne Lauritzen stated that he does not disagree with Shellie Milne at all. He is uncomfortable with the whole issue. He is unaware of a good reason why this matter cannot be discussed today. Until he hears that, he is uncomfortable. To have a blanket continuance without any explanation at all is concerning for him.

Debbie Franklin stated the item was pulled, but asked if the item was pulled with the intent to continue the item. Chairman Miller stated that the item is being pulled from today's agenda and will be brought back to the Board.

Harry Ramos stated that he was very uncomfortable as well. He disagreed with counsel's interpretation that this was not a Brown Act violation. He stated that in reality if he spoke with 12 of his colleagues and then received that e-mail and the Board has 25 members then that would have been a Brown Act violation, and he was not asked how many colleagues he spoke to. Harry Ramos stated that he has never seen in his limited experience a motion ignored the way it is. He agreed with his colleague Supervisor Jeffries and with all due respect to his colleagues, he excused himself from the meeting.

At this time, Harry Ramos left the dais.

5. BOARD MEMBER ANNOUNCEMENTS

There were no Board Member announcements.

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6. ADDITIONS/REVISIONS

There were no additions or revisions.

7. APPROVAL OF MINUTES

M/S/C (Montanez/Hewitt) to approve the minutes of the March 3, 2014, as submitted.

(9 Ayes, 3 Abstained – Franklin/Stone/Elsinore, 1 Nay – Melendrez)

8. CONSENT CALENDAR

***M/S/C (Montanez/Bash) to approve the Consent Calendar item:
(13 Ayes)***

**8.1 WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT
CONSERVATION PLAN (MSHCP) LOCAL DEVELOPMENT
MITIGATION FEE (LDMF) COLLECTION AND CIVIC AND
INFRASTRUCTURE CONTRIBUTION REPORT FOR FEBRUARY 2014**

Receive and file the attached Western Riverside County MSHCP Local Development Mitigation Fee Collection and Civic/Infrastructure Contribution Report for February 2014.

**9. RESOLUTION NO. 14-002, RESOLUTION OF THE BOARD OF DIRECTORS OF THE
WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY
ADOPTING A STATEMENT OF INVESTMENT POLICY**

Steve DeBaun, RCA Legal Counsel, advised that all public agencies are required to adopt an investment policy. The RCA has adopted by reference the investment policy that is adopted by the Riverside County Treasurer's Office. The County Treasurer is the Treasurer for the RCA. The proposed item is to adopt Resolution No. 14-002, which adopts by reference the County Treasurer's Investment Policy that was updated several months ago.

***M/S/C (Montanez/Bash) to adopt Resolution No. 14-002, Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Adopting a Statement of Investment Policy.
(13 Ayes)***

10. Laurie Correa, Director of Reserve Management & Monitoring, presented information requested by the Board on MSHCP burrowing owl objectives. She explained that there are seven objectives for burrowing owl which include conservation acreage goals and habitat types, a list of five primary burrowing owl Core areas, a number of possible secondary Core areas and a requirement that 120 owls present in Core areas with no

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fewer than five pairs in each Core. Ms. Correa gave a summary of the status of these objectives since they must be met to suspend project related burrowing owl surveys. Ms. Correa then discussed the objectives related to focused and pre-construction surveys for owls, the options for passive and active relocation when a project has burrowing owls onsite and described how each options works. Dustin McLain, MSHCP Reserve Manager, then presented the active relocation process including how and when the owls are trapped, transported and held in large cages anchored above an artificial burrow for varying times depending on the season and whether it's a pair or a single owl. Mr. McLain provided a summary of the results of the three active relocations since 2009 to the RCA El Sol property, RCHCA Lake Mathews/Estelle Mountain property and to the Hidden Valley Wildlife Area.

Kevin Bash confirmed that there was only one pair of burrowing owls in Core 1 near Norco by the Santa Ana River. Dustin McLain responded that there is one pair that has been document under surveys. There are a lot of incidental sightings, however, they did not fall into the breeding pair surveys. There are owls in the La Sierra Hills project, some north of Bain Street near the flood control channel. They are there some years and not others. Kevin Bashed stated that near Hidden Valley there is a proposal to put in almost 2,000 homes, which the City will oppose, and he asked what impact that development would have on the nature aspect of Hidden Valley. Dustin McLain responded that it would have a great effect as it acts as a buffer to most of the City of Riverside. There are currently burrowing owls there, however, it is private property so the RCA does not survey. There was a fire in that area nearly a month ago and park rangers responded to the fire and sighted four burrowing owls. There have been incidental sighting of burrowing owls, but not documented survey based, methodology based, protocol based surveys.

11. RESOLUTION NO. 14-003, RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY ADOPTING A NON-DEVELOPMENT HABITAT EVALUATION AND ACQUISITION NEGOTIATION STRATEGY (HANS) POLICY

This item was pulled and continued.

12. NON-DEVELOPMENT HANS FUNDING LEVEL FOR FISCAL YEAR 2015

This item was pulled and continued.

At this time, Shellie Milne left the meeting.

13. CHAIRMAN'S/EXECUTIVE DIRECTOR'S REPORTS

13.1 Report Regarding Washington, D.C., Trip

Chairman Miller reported on the March 24 – 24, 2014, Washington, D.C. trip where they had the opportunity to discuss the Section 6 funding, the possibility of

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including the loan program language in the Water Infrastructure Finance and Innovation Act (WIFIA) and the Transportation Infrastructure Finance and Innovation Act (TIFIA). Meetings were held with Congressmen Ken Calvert and Mark Takano, and with the offices of Senators Dianne Feinstein and Barbara Boxer regarding the loan program. They understood RCA's commitment and resolve regarding the MSHCP. The meetings were very productive.

Charlie Landry stated a meeting was also held with the Senate Appropriations staff and jointly with Congressman Calvert and House Appropriations staff. Congressman Calvert continues to work on the loan program and Section 6 funding which he will make a continuing budgetary commitment. RCA Lobbyists, Dave Kennett set up the House meetings, and Doug Wheeler set up the meetings with the U.S. Fish and Wildlife Service.

13.2 Fiscal Year 2014 Third Quarter Consultant Reports for David Kennett, Capital Alliance Consulting, and Douglas P. Wheeler, Hogan Lovells US LLP.

Charlie Landry stated that David Kennett and Doug Wheeler have been instrumental in moving forward the Water Resources Development Act (WRDA), WIFIA that is expected to come out of the Conference Committee, and TIFIA of which hearings will commence soon. Staff and the lobbyists continue to coordinate with Congressman Calvert on these bills. He noted an upcoming study by Martin Wachs of U.C.L.A. which analyzes the habitat conservation plans' in furtherance of transportation.

M/S/C (Stone/Ashley) to receive and file the Fiscal Year 2014 Third Quarter Consultant Reports for David Kennett and Douglas Wheeler.

(12 Ayes)

13.3 Loan Program Update

See report under Agenda Item No. 13.1.

13.4 Section 6 Funding Update

For this year, \$18 million Section 6 funding appropriation nationwide was approved. RCA has requested \$2 million, which is the maximum amount that is allowable under the established rules and is working with Congressman Calvert and the Appropriations staff to find a way to increase the amount.

13.5 Report on Follow-up Items from March Board Meeting

Charlie Landry restated that the Willing Sellers are property owners who contacted the RCA indicating their desire to sell the property, which may or may not be

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needed for reserve assembly. As far as Non Development HANS, there is currently one approved property undergoing the acquisition process.

14. LAND ACQUISITION UPDATE

Brian Beck reported that since the last meeting, RCA conserved an additional 82 acres, bringing the reserve total to 47,143 acres.

15. ITEMS FOR NEXT MEETING

Andy Melendrez said that in light of the discussions today, it is important to have a clear understanding and review of procedure and the Chair's duties, and e-mail procedures. He requested that the two items be reviewed and agendaized.

16. ADJOURNMENT

There being no other items before the RCA Board, Chairman Milled adjourned the meeting. The next meeting of the Western Riverside County Regional Conservation Authority Board of Directors is scheduled for Monday, May 5, 2014, at 12:30 p.m., at the County of Riverside Administrative Center, Board Room, 4080 Lemon Street, Riverside, California.

Respectfully submitted,



Honey Bernas
Clerk of the Board