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## **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 12:35 p.m. Monday, March 3, 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. Following the flag salute, Chairman Miller announced that Charlie Landry was not in attendance at today's meeting because his father passed away over the weekend. He announced that on behalf of the RCA Board, the meeting will be adjourned in John Landry's honor.

### **3. ROLL CALL**

#### **Board Members Present**

Kevin Bash, *City of Norco*  
Ben Benoit, *City of Wildomar*  
Roger Berg, *City of Beaumont*  
Tim Brown, *City of Canyon Lake*  
Maryann Edwards, *City of Temecula*  
Tom Fuhrman, *City of Menifee*  
Jeffrey Hewitt, *City of Calimesa*  
Bob Magee, *City of Lake Elsinore Alternate*  
Andy Melendrez, *City of Riverside*  
Kevin Jeffries, *Riverside County District 1*  
Verne Lauritzen, *City of Jurupa Valley*  
Shellie Milne, *City of Hemet*  
Scott Miller, *City of San Jacinto*  
Jesse Molina, *City of Moreno Valley*  
Eugene Montanez, *City of Corona*  
Adam Rush, *City of Eastvale\**  
Karen Spiegel, *Riverside County District 2 Alternate*  
Mark Yarbrough, *City of Perris\**  
Ella Zanowic, *Riverside County District 5 Alternate*

#### **Board Members Absent**

John Benoit, *Riverside County District 4*  
Debbie Franklin, *City of Banning*  
Harry Ramos, *City of Murrieta*  
Jeff Stone, *Riverside County District 3*

*\*Arrived after start of the meeting.*

### **4. PUBLIC COMMENTS**

MaryAnn Miller of Murrieta, California, provided oral and written testimony to the RCA Board on how the MSHCP affects small property owners. She requested

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information/impact studies regarding the loss of tax and revenue caused by the removal of 150,000 acres of private property to comply with the MSHCP in Western Riverside County and the loss of tax asset base and resultant loss of sufficient property owners qualifying for a CFD bond; County imposed RCA/MSHCP billings assessed on small property owners in the HANS process; definition of the term “willing seller”; under what circumstances a private property owner becomes a willing seller; and the list of “secret” willing sellers. *(The submitted written testimony and requested list of documents/information are on file at the RCA office.)*

Chairman Miller noted that responses to public comments received at RCA Board meetings are reported back at the RCA Board’s next meeting. With regard to the requested list of willing sellers, staff and legal counsel will review to determine if there are any legal issues concerning the release of the list of property owners’ names.

**5. BOARD MEMBER ANNOUNCEMENTS**

Tom Fuhrman reported a mountain lion attack in the City of Perris on February 5.

**6. ADDITIONS/REVISIONS**

Agenda Item No. 14.2, *Conference with Legal Counsel – Existing Litigation, (MCC1300351 JPR, Inc., dba Silverado Ranch Estates vs. California Department of Fish and Game; County of Riverside; Western Riverside County Regional Conservation Authority)*, was pulled from the Closed Session Calendar.

**7. APPROVAL OF MINUTES**

***M/S/C (BASH/BBENOIT) to approve the minutes of the February 3, 2014, as submitted.***

**Abstained:**

***(14 Ayes, 3 Abstained - Magee, Spiegel, Zanowic)***

**8. CONSENT CALENDAR**

***M/S/C (MONTANEZ/EDWARDS) to approve the Consent Calendar items:***

***(17 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 JANUARY 2014**

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

**8.2 FISCAL YEAR 2014 SECOND QUARTER FINANCIAL REPORT**

- 1) Receive and file the Fiscal Year 2014 Second Quarter Financial Report;
- 2) Approve the budget adjustments contained in Exhibit A; and
- 3) Authorize the Chairman to direct the Auditor-Controller to make the budget adjustment contained in Exhibit A.

**9. MSHCP LOCAL DEVELOPMENT MITIGATION FEE ANNUAL CONSUMER PRICES INDEX (CPI) ADJUSTMENT**

Honey Bernas, Director of Administrative Services, said that the MSHCP includes a provision for an annual CPI adjustment to local development mitigation fees collected to fund the implementation of the Plan. She stated that based upon the current economic situation and the fact that a Nexus Study amendment is in progress, the Executive Committee and staff recommended not implementing the CPI adjustment for FY 2015. If implemented, the MSHCP fees will increase by 1.14%. Staff estimates that not implementing the increase will result in a loss of revenue of approximately \$94,000.

In response to Karen Spiegel question whether there is a direct loss of revenues resulting from not adjusting the adjustment to local development mitigation fees, Honey Bernas said that the potential revenue loss of \$94,000 was based on estimated \$8.2 million mitigation fees for the next year.

Maryann Edwards added that the \$94,000 is the value of the lost fees for not implementing the CPI adjustment, and there is no direct impact to current services or the budget as these are projected revenues if a CPI adjustment is approved.

Adam Rush asked about the status of the Nexus Study and if drastic changes are anticipated. Chairman Miller said that the Nexus Study is expected to be completed by the second or third quarter. At that time, the results will be reviewed and presented to the RCA Board.

Roger Berg spoke and said that RCA is currently in need of funds to carry on its acquisition objectives. He is in support of implementing the CPI adjustment especially with revenue needs and this is an opportune time because valuation of properties is lower. He believes that the increase to developer fees is nominal, but will assist RCA to acquire critically needed reserve land.

Adam Rush joined the meeting during staff's presentation of this item.

***M/S/C (EDWARDS/BASH) to approve not implementing the CPI adjustment for MSHCP Local Development Mitigation Fees for Fiscal Year 2015.***

***(Ayes 17, Nay 1-Berg)***

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10. **RESOLUTION NO. 14-001, RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY APPROVING THE PURCHASE OF TAX DEFAULTED PROPERTY FROM THE RIVERSIDE COUNTY TREASURER-TAX COLLECTOR'S OFFICE**

Brian Beck, Land Acquisition Analyst, stated that this item was continued from the February Board meeting to provide sufficient time to meet and review with Supervisor Kevin Jeffries and County department staff, several tax default properties that RCA staff is proposing to purchase. After further evaluation of the properties, staff recommended that nine (9) properties be approved for purchase. The list is one (1) less property from last month's list, which is located in the Tenaja area. As noted previously, the subject properties are all located within MSHCP criteria cells. The properties total approximately 168.56 acres and the purchase is \$288,114.12 (approximately \$1,709/acre). The proposed purchase of tax defaulted properties is consistent with the RCA's Economic Stabilization Policy.

Tim Brown cited the Fifth Amendment of the Constitution regarding taking private property for public use without just compensation. He proceeded to use as an example his property located in a criteria cell and his daughter unaware of it as part of the estate and moves away. It would then result in having unpaid property taxes and end up on the tax defaulted property list and available for public agencies to acquire at a much reduced cost. He then continued and presented an extensive report on the history of citizens' experiences and struggles encountered regarding taking and transfer of personal property over the years as they faced rulings and directives imposed by various regimes and government agencies. He urged Board Members not to approve this item and suggested that a committee be formed to further review RCA's policy to develop protections relating to tax defaulted properties acquired by the RCA to remain in conservation.

Chairman Miller reminded the Board Members that the process to put up tax defaulted properties for sale and the purchase of needed properties by public agencies to meet their respective objectives is a State law and is being exercised nationwide.

Adam Rush stated that including the map of the properties being recommended to be purchased with the staff report would be helpful to the Board Members.

Verne Lauritzen stated that due process is being followed and compensation is made in acquiring the tax defaulted properties so he had no concerns with regard to the acquisition process. He is concerned, however, with the taking of a potentially productive property and placing them into public conservation where they will have no possibility of generation of any kind of economic development or revenue. He asked if the list of properties were assessed and analyzed with regard to their potential for economic development and/or generation of tax revenue in the future.

Brian Beck said that all of the properties are under the general plan designation of rural mountainous or rural residential. In terms of economic development, RCA's primary

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mission is to look at whether the properties are good for conservation in order to promote economic development and infrastructure, and contribute to the MSHCP objectives.

Maryann Edwards asked whether the owner or the estate of the deceased can offer a bid during the same process that RCA enters into.

Steve DeBaun, Legal Counsel, said that without reviewing the County's policies, he believes that it takes a number of years before the County Tax Assessor's Office list the property and the County makes numerous attempts to the property owner/heirs/estate listed to resolve and cure the outstanding taxes owed. Once it is in default, he is not aware as to who has the priority to purchase the property.

Mark Yarbrough arrived for the meeting at this time.

Roger Berg commented that this an appropriate tool that RCA and cities use to acquire needed properties at reasonable prices. The purpose for the acquisition is to gain properties for the purposes of the Multiple Species Habitat Conservation Plan.

Kevin Jeffries reported that following the February Board meeting, RCA staff, in a professional manner, met with him and County departments to provide information on the tax defaulted properties proposed to be purchased. He commended staff for pulling the property in Tenaja off the list prior to meeting with his office. He said it is a lengthy and cumbersome process that the County goes through to place a property on the tax default list. His concern regarding the process is the need to review whether such properties could serve as a neighborhood park, future fire station site, etc., which does not fit in with RCA, as it does not fit their needed property criteria. He noted that the County District 1 office is implementing an early review of the properties put up for tax sale. Because of the process, he does not believe that RCA is unethically, improperly or illegally acquiring the properties. However, an argument can be made that because it is not before a public sale, the estate is not going to receive the proceeds that it otherwise might if the property had been bid at a public sale. In this case, this is a government system and not RCA's that there is no bid up. This part of the process will have to be changed by the State Legislature. However, he objects to the process of assembling, flipping, and selling properties at a property owner's expense. For the purposes of this item, RCA staff has provided the requested information to address his concerns. Other policy issues could be addressed separately. Finally, he added that it is his understanding that even though a public agency has submitted to acquire a property on the tax default list, the property owner still has a year to pay back taxes and regain ownership of the property.

Tim Brown said that it is his understanding, based a comment from the Tax Collector's office, that a property owner does not have the ability after the five year process to pay back taxes and regain their property. In addition, they indicated that they are only able to track 80% of the property owners. Therefore, 20% of the property owners may not be aware that their properties are on the tax default list for sale.

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Chairman Miller directed RCA staff to provide clarification on the process.

***M/S/C (EDWARDS/MELENDREZ) to approve Resolution No. 14-001, Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Approving the Purchase of Tax Defaulted Property from the Riverside County Treasurer-Tax Collector's Office.***

***(Ayes 15, Nays 4 – Brown, Fuhrman, Hewitt, Molina)***

**11. EXECUTIVE DIRECTOR'S REPORT**

On behalf of the Executive Director, Chairman Miller presented the following reports:

**11.1 Loan Program Update**

The Water Resources Development Act (WRDA) legislation that includes the loan program provision was passed by both houses and is currently in the conference committees. It is expected that this will be finalized next week. However, it is still unclear whether the Water Infrastructure and Financing Act (WIFIA) will be part of the package. There are a number of congressional delegates that support WRDA and WIFIA and RCA will continue to be in communication with them.

**11.2 Report on Follow-up Items from February Board Meeting**

- A. Last month, Mrs. Miller agreed to have eight (8) acres of her property, described for conservation during the City of Murrieta's HANS process, be appraised for acquisition by RCA. The appraisal process which will take several months.
- B. At the last meeting, Mr. Max Miller commented that there was disparity in the valuation of property between small and large landowners. Based upon the review of records, the following are the average prices per acre for properties acquired by the RCA:

<u>No. of Acres</u>	<u>Average Price Paid by RCA Per Acre</u>
0 - 30	\$28,810.11
30 - 100	\$17,121.99
100+	\$ 8,301.34

Based on the above information, the small property owner has seen much more value per acre than larger developers, which is in line with normal real estate expectations.

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### **11.3 Section 6 Funding**

The Senate and House agreed to appropriate \$50 million in Section 6 funds, which is slightly up from last year's appropriation. \$18 million of the \$50 million Section 6 appropriation is designated for land acquisition with awards cap at \$2 million. Last year's cap was \$3 million. RCA applied for the full \$2 million Section 6 allocation.

RCA has \$4 million of Section 6 funds available to spend. There are currently \$1.9 million in acquisitions in process, leaving a balance of \$2.1 million.

In response to MaryAnn Edwards' question regarding the restriction to use local funds as a match for Section 6 funds, Brian Beck said that the restriction no longer applies.

### **11.4 Newsletter**

Distributed to the RCA Board Members were copies of the latest RCA Newsletter which featured articles such as MSHCP's benefits relating the infrastructure projects, acquisition process, managing habitat. Extra copies were provided to the RCA Board Members to distribute to their respective agencies.

## **12. LAND ACQUISITION UPDATE**

Brian Beck reported that since the last meeting, RCA added eight acres to the reserve, bringing the reserve total to 47,061 acres.

## **13. ITEMS FOR NEXT MEETING**

Tom Fuhrman requested the following items:

- A) A listing, by city, of the willing sellers; and,
- B) After RCA has met the required 150,000 reserve acreage, a plan detailing revenue sources to fund the maintenance of the reserves.

At this time, Chairman Miller briefed the RCA Board Members and meeting attendees on John Landry's life accomplishments and services, and provided information on the funeral arrangements. A bereavement card was circulated. The RCA Board adjourned the open session in memory of John Landry.

Legal counsel announced the Closed Session items.

At this time, Bob Magee left the meeting.

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**14. CLOSED SESSION ITEMS**

**14.1 CONFERENCE WITH REAL PROPERTY NEGOTIATOR**

**Pursuant to Government Code Section 54956.8**

**Negotiating Parties:** RCA – Executive Director of Designee

**Under Negotiation:** Price/Terms

<b>Item</b>	<b>Assessor Parcel No.</b>	<b>Property Owners</b>
1	365-190-002	Kenneth and Patricia Patterson
2	932-220-036 932-220-037	Dwayne and Faye Berger

**14.2 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

**Pursuant to Paragraph 1 of Subdivision (d) of Government Code Section 54956.9**

There were no announcements from the Closed Session items. With no other items before the RCA Board, Chairman Miller adjourned the meeting.

**14. ADJOURNMENT**

The next meeting of the Western Riverside County Regional Conservation Authority Board of Directors is scheduled for Monday, April 7, 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