

# **AGENDA ITEM NO. 7**

## **MINUTES FEBRUARY 1, 2016**



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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 Montanez at 12:30 p.m. on Monday, February 1, 2016, in the Board Room of the Riverside County Administrative Center, 4080 Lemon Street, Riverside, California, 92501.

### **2. PLEDGE OF ALLEGIANCE**

Board Member Bash led the RCA Board Members and meeting attendees in a flag salute.

### **3. ROLL CALL - Taken by Rose Esparza, RCA Administrative Manager.**

#### **Board Members Present**

George Moyer, *City of Banning*  
 Brenda Knight, *City of Beaumont*  
 Jeffrey Hewitt, *City of Calimesa*  
 Tim Brown, *City of Canyon Lake*  
 Eugene Montanez, *City of Corona*  
 Clint Lorimore, *City of Eastvale\**  
 Verne Lauritzen, *City of Jurupa Valley*  
 Natasha Johnson, *City of Lake Elsinore*  
 Matt Liesemeyer, *City of Menifee*  
 D. LaDonna Jempson, *City of Moreno Valley*  
 Jonathan Ingram, *City of Murrieta*  
 Kevin Bash, *City of Norco*  
 Mark Yarbrough, *City of Perris\**  
 Andy Melendrez, *City of Riverside, Alt*  
 Crystal Ruiz, *City of San Jacinto*  
 Maryann Edwards, *City of Temecula*  
 Ben Benoit, *City of Wildomar*  
 Kevin Jeffries, *Riverside County District I*  
 John Tavaglione, *Riverside County District II*  
 Chuck Washington, *Riverside County District III*  
 Marion Ashley, *Riverside County District V*

#### **Board Members Absent**

Linda Krupa, *City of Hemet*  
 John Benoit, *Riverside County District IV*

\* Arrived after roll call

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### **4. PUBLIC COMMENTS**

Chairman Montanez called for public comments on items not listed on the agenda.

Susan Nash submitted a request to speak on Paulek vs. RCA, return on writ. When called up by Chairman Montanez, Susan Nash indicated that she did not need to speak before the RCA Board, she was able to speak to general counsel before the RCA Board meeting and matter was discussed.

### **5. BOARD MEMBER ANNOUNCEMENTS**

Chairman Montanez called for Board Member announcements. There were no Board Member announcements.

Chairman Montanez welcomed new Board Members: Mark Yarbrough, City of Perris; Brenda Knight, City of Beaumont; and Crystal Ruiz from City of San Jacinto.

*Board Member Yarbrough arrived during Board Member announcements at 12:34 p.m.*

### **6. ADDITIONS/REVISIONS**

There were no additions or revisions to the agenda.

### **7. APPROVAL OF MINUTES – January 4, 2016.**

***M/S/C (INGRAM/JEMPSON) to approve the minutes of the January 4, 2016 meeting of the RCA Board of Directors.***

***Ayes 18, Nays 0, Abstain 2 (KNIGHT/YARBROUGH)***

### **8. CONSENT CALENDAR**

***M/S/C (ASHLEY/LAURITZEN) to approve the Consent Calendar Agenda Item Nos. 8.1, 8.2.***

***Ayes 20, Nays 0***

*Board Member Lorimore arrived after the vote at 12:38 p.m.*

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**8.1 WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP) LOCAL DEVELOPMENT MITIGATION FEE (LDMF) COLLECTION AND CIVIC/INFRASTRUCTURE CONTRIBUTION REPORT FOR DECEMBER 2015**

Receive and file the Western Riverside County MSHCP LDMF Collection and Civic/Infrastructure Contribution Report for December 2015.

**8.2 FISCAL YEAR 2016 SECOND QUARTER CONSULTANT REPORTS**

Receive and file the Fiscal Year 2016 Second Quarter Consultant Reports.

**9. PRESENTATION REGARDING WILDLIFE CORRIDORS AND TRAILS**

Board Member Hewitt requested that the presentation be continued to the March 7, 2016 Board meeting to allow Joyce McIntire, Mayor Pro Tem from the City of Calimesa, to attend the presentation. She was not able to attend the February 1, 2016 meeting.

**10. RESOLUTION NO. 2016-003, RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY REVISING ITS FEE CREDIT AND WAIVER POLICY SUPERSEDING AND REPLACING RESOLUTION NO. 05-05**

Overview

This item is for the RCA Board of Directors to adopt Resolution No. 2016-003, *Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Revising its fee Credit and Waiver Policy Superseding and Replacing Resolution No. 05-05.*

Chairman Montanez asked if this this item is being continued. Honey Bernas, Director of Administrative Services, explained that the policy was ready to go forward until a last minute request from Riverside County Flood Control and Water Conservation District for modifications. Staff is agreeable to the modifications and requests the opportunity to brief the Executive Committee before bringing back to the Board on March 7.

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Chairman Montanez confirmed that there is not a timing issue in which to comply with. Honey Bernas agreed. Chairman Montanez asked if Board Members were agreeable to have this item continued to March 7, 2016.

Board Member Brown commented that leaving this item to the administrator to decide fee waivers without full input from the Board is ill-advised. It is not that he distrusts anyone's intent, but part of the Board's responsibility is oversight. He stated that any fee waivers should be brought before the full Board.

Chairman Montanez explained that the way the policy is written is confusing because that is only one part of it. The option to have this before the full Board is there. He further explained that there are two parts to the policy. The first part provides the application goes to the Executive Director for decision. If there is a dispute, the matter can be brought to the full Board.

Board Member Brown said that he understands if there is a dispute, it does come before this Board. Yet, his interpretation of the policy is that if something is approved, it does not ever reach the full Board.

Board Member Washington reiterated that there is a motion and second to continue this item, and questions should be asked when the item it is returned to the Board.

Chairman Montanez asked if the Board can put off the motion and second while the discussion takes place. Steve DeBaun, General Counsel, replied in the affirmative and said it would be up to the Chairman's approval as administrator of the meeting.

Honey Bernas, Director of Administrative Services explained that the Member Agencies have the ultimate authority to approve a fee credit or waiver. The policy before the Board allows RCA to be informed of fee credits that are being approved and provides some RCA oversight. If RCA does not agree with the fee credit waiver, the Member Agency can still enter into the fee credit or waiver agreement, but RCA will bring the matter to the Board and allow the Board to decide what action, if any, should be taken. Honey Bernas asked if it's the Board's desire to have every fee credit application approved by the Board rather than the Executive Director.

Board Member Brown said that would make more sense. He said that he is still trying to understand the details of this policy. In his opinion, it does not make sense that there is no oversight on applications that are approved and opens the door for potential abuse.

Charles Landry commented that the fee credit application is initiated by the Permittee (the Member Agency). RCA does not normally bring the fee credits forward without Member Agencies requesting it.

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Board Member Brown reiterated his understanding of the proposed policy and gave an example to help clarify that understanding. For instance, the City of Canyon Lake wants to enter into a fee credit agreement. If the Executive Director approves it, that decision never reaches the Board. He asked if that was correct. Charles Landry answered in the affirmative under the proposed policy. Board Member Brown said that is where he sees a potential for abuse.

Honey Bernas explained that the current fee credit policy does not allow RCA any oversight authority on fee credits. The terms of the proposed policy were negotiated with Member Agencies, and if approved will result in RCA at least being informed of all fee credit agreements that are entered into.

Steve DeBaun commented that under the current fee policy, fee credits are reviewed during the audit process, post hoc. The revised policy provides a mechanism to allow RCA to be aware of the fee credit agreements and opine whether or not they are within the scope of the MSHCP.

Board Member Brown said it's a political issue and best discussed during the hearing when this agenda item returns to the Board.

Board Member Jeffries said this policy is going in the right direction for more disclosure compared where RCA is today. The only thing he saw missing is that when it is agreed upon by the Executive Director, with no controversy, when is the Board notified that a waiver has been agreed upon, if at all. As a matter of course of information, not necessarily approval, just a notification in the Executive Director's report or some other type of mechanism that says the following waivers have been granted so that when the Board finds out later on, it's not a surprise. This would be the only component not yet addressed in this policy.

Honey Bernas suggested that the reporting section could be revised to say that the Executive Director will provide monthly reports to the RCA Board, rather than the Executive Committee, of all fee credits that are approved.

Chairman Montanez said there are not many fee credit agreements so reporting them should not be a problem.

Board Member Ingram agreed with Board Member Jeffries and stated that the policy should include a "not to exceed" limit for the Executive Directors authority and still have a reporting requirement for those instances that are within the Executive Director's approval authority. This would give the Executive Director the ability to approve the fee credits and not hold things up.

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Board Member Jempson asked for clarity purposes, if staff is indicating that it has been for informational only for this Board. She asked if any fee credits were approved in 2015, as she did not recall the Board reviewing or discussing any fee credits. Honey Bernas replied to say that she does not recall any fee credits in 2015.

Laurie Dobson Correa, Director of Reserve Management and Monitoring, indicated that the current policy does not require RCA to approve fee credits. The only time they have come up is during the audits.

Charles Landry added that usually there is a lag of one to two years before RCA is aware that a Member Agency entered a fee credit agreement.

Honey Bernas said the intent of the policy is that RCA is informed when a Member Agency is entering into a fee credit agreement and provide RCA an opportunity to review the agreement, ensure compliance with the MSHCP, and give RCA and the Member Agency a chance to agree on the terms of agreements and hopefully avoid issues coming up that result in audit findings. She believes having a policy would be helpful to RCA staff, as well as the Member Agencies. Staff can certainly report every fee credit approval to the Board, and if the Board desires fee credit approval authority, the policy can be revised to reflect that. This policy before the Board does not take the approval authority away from the Member Agencies. Even if RCA does not agree with a fee credit agreement, the Member Agency can still enter into it. If the Member Agency enters into the agreement, it would be up to this Board to make a decision regarding the appropriateness of the fee credit and what, if any, action should be taken.

Board Member Jempson asked if it would take one to two years before the Board is made aware of a fee credit agreement. Honey Bernas answered that under the current policy, yes. With the new policy, the Board and RCA staff would be informed of fee credit agreements. Board Member Jempson asked if that was the objective of the proposed policy before the Board. Honey Bernas answered in the affirmative.

Chairman Montanez stated that part of the complication is that there is a lot written within the document. Chairman Montanez stated that because the matter was going to be continued, there was not a full staff presentation regarding the current policy vs. the proposed policy, and he apologized for that. The item will be brought back to the Board for full discussion on March 7, 2016, assuming that the Executive Committee approves the item and moves it forward. Chairman Montanez suggested that if anyone had any further questions, it would be helpful to speak to staff before the next meeting so everyone is clear as to what the current policy is and what the proposed policy is. It is always helpful if staff is aware of questions and concerns. Staff had met with Flood Control and thought their concerns were addressed; however, Flood Control informed staff of additional concerns. Chairman Montanez apologized for both of those things.

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***M/S/C (LIESEMEYER/MOYER) to continue Resolution No. 2015-003 to March 7, 2016.***

**Ayes 21, Nays 0**

### **11. ELECTION OF VICE CHAIRPERSON AND POSSIBLE APPOINTMENT AND RATIFICATION OF THE CHAIRPERSON'S APPOINTMENT OF THE 2016 RCA EXECUTIVE COMMITTEE**

#### Overview

This item is for the RCA Board of Directors to hold an election for Vice Chairperson and, if necessary, the Chairperson to appoint a new Executive Committee member and the RCA Board of Directors to ratify said appointment.

Chairman Montanez stated that Marion Ashley volunteered to be Vice Chairman and that he had appointed the following Board Members to be on the Executive Committee, along with past Chairman (John Tavaglione):

Maryann Edwards, Natasha Johnson, and Ben Benoit.

Chairman Montanez made a motion to add Mark Yarbrough if he is willing.

***M/S/C (EDWARDS/LORIMORE) nominated Marion Ashley for the RCA Board of Directors Vice Chairman.***

**Ayes 20, Nays 0, Abstain 1 (ASHLEY)**

***M/S/C (WASHINGTON/LAURITZEN) to approve the Ratification of the Chairperson's appointment of the 2016 RCA Executive Committee.***

**Ayes 21, Nays 0**

### **12. LAND ACQUISITION UPDATE**

Charlie Landry, Executive Director, stated that at the January 4, 2016 Board meeting, he reported 49,790 acres of Additional Reserve Lands. The RCA closed on four additional properties totaling 222, which brings the reserve to 50,012 acres, leaving approximately 103,000 acres to be acquired.

**13. ITEMS FOR NEXT MEETING**

Board Member Brown requested that Board Members be provided with a copy of the land use policy and the opportunity to discuss it if there are any issues associated with it.

Chairman Montanez asked if Board Member Brown had any specifics to discuss or after he has had a chance to review.

Board Member Brown said that he would like to go through it. He had two questions come before him regarding trails that were closed. He wants to understand the policy.

Chairman Montanez suggested that Board Member Brown talk to RCA staff after the meeting so his understanding is not prolonged to the next meeting. He also stated that receiving the policy information is no problem. Charles Landry said the policy will be given to him once staff determines what in particular Board Member Brown is looking for. Laurie Dobson Correa said the land use policy should be on the website. She stated that she will make sure it is and provide him a copy. Chairman Montanez suggested that all the Board Members received a copy.

**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 Owner(s)/Agent</b>
1	572-020-011, 572-020-012, 572-020-014	Gail Ann Shoppe/Chilli Ainsworth

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

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

- **Case No. RIC 1600058 A.T. Paulek; Friends of the Northern San Jacinto Valley vs. Western Riverside County Regional Conservation Authority, Coachella Valley Conservation Commission, California Department of Fish & Wildlife**
- **Case No. 12-57297, D.C. No. 8:11-cv-01263-JVS-AN Bear Valley Mutual Water Company v. Sally Jewell**

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

**15. ADJOURNMENT**

There being no other items before the RCA Board, Chairman Montanez adjourned the meeting at 1:10 p.m. The next meeting of the Western Riverside County Regional Conservation Authority Board of Directors is scheduled for Monday, March 7, 2016, at 12:30 p.m., at the County of Riverside Administrative Center, Board Room, 4080 Lemon Street, Riverside, California.

Prepared by:



Rose Esparza  
Administrative Manager

Respectfully submitted:



Honey Bernas  
Clerk of the Board