

AGENDA ITEM NO. 6

MINUTES

May 18, 2016



EXECUTIVE COMMITTEE MINUTES

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1. CALL TO ORDER

The meeting of the Western Riverside County Regional Conservation Authority Executive Committee was called to order by Chairman Montanez at 12:09 p.m., Wednesday, May 18, 2016, at the RCA Conference Room, 3403 Tenth Street, Suite 320, Riverside, California, 92501.

2. ROLL CALL – was taken by Kristin Staudenmaier.

COMMITTEE MEMBERS PRESENT	COMMITTEE MEMBERS ABSENT
Eugene Montanez, Chairman – City of Corona	Natasha Johnson - City of Lake Elsinore
Ella Zanowic (Alternate) for Vice Chairman – County of Riverside District V	
Jonathan Ingram, City of Murrieta	
*Maryann Edwards - City of Temecula	
Ben Benoit – City of Wildomar	
John Tavaglione County of Riverside District II	

**Arrived after start of meeting*

3. PUBLIC COMMENTS

There were no public comments.

4. COMMITTEE MEMBER ANNOUNCEMENTS

There were no member announcements.

5. ADDITIONS/REVISIONS

There were no additions or revisions to the agenda.

6. APPROVAL OF MINUTES – April 20, 2016

M/S/C (INGRAM/BENOIT) to approve the minutes of the April 20, 2016 meeting of the Executive Committee as submitted.

(4 Ayes, 0 Nays, 1 Abstain-Zanowic)

7. WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP) LOCAL DEVELOPMENT MITIGATION FEE (LDMF) COLLECTION AND CIVIC/INFRASTRUCTURE CONTRIBUTION REPORT FOR APRIL 2016

Honey Bernas, Director of Administrative Services, presented the LDMF Collection and Civic/Infrastructure Contribution Report for April 2016. The RCA received fees in the amount of \$748,565 for 313 residential permits and 22.58 commercial acres. There were 43 reported exemptions totaling \$83,754. There were 33 exemptions in the City of Lake Elsinore and 13 in the County of Riverside. There were no reported Civic/Infrastructure projects.

M/S/C (INGRAM/ZANOWIC) to:

- 1) Recommend that that RCA Board of Directors receive and file the Western Riverside County MSHCP LDMF Collection and Civic/Infrastructure Contribution Report for April 2016; and
- 2) Authorize staff to agendize this matter for the June 6, 2016 meeting of the RCA Board of Directors.

(5 Ayes, 0 Nays, 0 Abstain)

8. FISCAL YEAR 2016 THIRD QUARTER FINANCIAL REPORT

M/S/C (BENOIT/INGRAM) to:

- 1) Recommend that the RCA Board of Directors receive and file the Western Riverside County FY 2016 Third Quarter Financial Report; and
- 2) Authorize staff to agendize this matter for the June 6, 2016 meeting of the RCA Board of Directors.

Honey Bernas, Director of Administrative Services, presented an overview of the Fiscal Year 2016 Third Quarter Financial Report. As of March 31, 2016, the RCA's cash balance was \$36.9 million, which represented a \$6.4 million increase from prior year's ending cash balance. Cash receipts totaled approximately \$22.9 million, cash disbursements totaled \$16.5 million. She noted that the cash balance as of May 9, 2016 was \$37.5 million, with an additional \$3.8 million set aside for the endowment.

In the Operations Program, staff projected a Net Operating Position of \$43,829 at fiscal year-end.

In the Management and Monitoring Program, staff projected a Net Operating Position of \$217,520 at fiscal year-end.

In the Land Acquisition Program, staff projected a Net Operating Position of \$561,295 at fiscal year-end, which is positive since the budget anticipated a draw on fund balance of \$688,000.

(5 Ayes, 0 Nays, 0 Abstain)

Board Member Edwards arrived after the vote was taken.

9. DRAFT 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 AND REPLACING RESOLUTION NO. 05-05

Honey Bernas, Director of Administrative Services, gave an update on the proposed draft Resolution No. 2016-003, Fee Credit and Waiver policy, which would supersede and replace Resolution No. 05-05. After the May 2, 2016, RCA Board of Directors meeting, staff met with Board Member Ingram and his staff to review and simplify the policy. The policy was revised to remove Flood Control projects so that only the Member Agency projects would be addressed. A separate policy with Flood Control will be initiated. Chairman Montanez asked what the reason was for removing Flood Control projects. Board Member Ingram responded that it was convoluted. The scope in which Flood Control looks at this policy is very different than the Member Agencies. What was an 11 page policy is now a two and a half page policy. He gave an overview of what was discussed at the May 2, meeting what changes were made to the policy. He discussed sections that needed simplifying to expedite the process. Charles Landry, Executive Director, said that RCA will be drafting another policy to address Flood Control projects. Chairman Montanez noted that the proposed policy before them is not being recommended to be heard at the next Board of Directors meeting, so he asked for suggestions on the next step. Charles Landry asked if the Executive Committee wanted to send this draft out to the Member Agencies for review and comment or place it on the next Board of Directors meeting agenda noting the substantive changes that have been made. Board Member Ingram reiterated all the changes made from the last draft. Board Member Edwards suggested sending the policy out for re-review.

Chairman Montanez suggested RCA staff send each Member Agency a copy of the revised proposed draft Fee Credit and Waiver Policy in order to obtain any comments and/or suggestions the Member Agencies may have. He also recommended allowing the Member Agencies 30 days to comment and send responses to RCA prior to the next RCA Board of Directors meeting on July 11, 2016. Honey Bernas agreed with Chairman Montanez's suggestion. Board Member Edwards reminded everyone that cities wanted to weigh in the day of the meeting so we need a deadline for comments. Charles

Landry commented that staff will make it clear to Member Agencies that the policy will be returned Board of Directors meeting in July. Chairman Montanez suggested copying each respective RCA Board Member on the communication to the Member Agencies asking for their review and comment on this policy.

Board Member Tavaglione recommended that staff coordinate a one-on-one meeting with the Cities that are having issues with the fee credit policy, and to also include the appropriate County Supervisor and Council Member to participate in the discussions.

Discussion on the appraisal process ensued with several recommendations to be sought by staff. Charles Landry thanked the Executive Committee for their guidance.

Honey Bernas suggested that if there are substantive comments that staff be directed to bring the matter back to the Executive Committee in August rather than agendizing for the July Board meeting.

10. RESOLUTION NO. 2016-010, RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY ADOPTING A FUND BALANCE POLICY

Honey Bernas, Director of Administrative Services, gave an overview of the Fund Balance Policy as outlined in Resolution No. 2016-010. The policy is in accordance with the Fund Balance Policy stated in the Governmental Accounting Standards Board (GASB) No. 54 – *Fund Balance Reporting and Governmental Fund Type Definitions*. The intent of GASB No. 54 is to enhance the usefulness of the fund balance information by providing clearer fund balance classifications to be consistently applied by governmental funds. The policy provides that only the RCA Board of Directors has the authority to commit fund balance for specific purposes through the adoption of a resolution. The policy also delegates the authority to assign fund balance to the Executive Director. The policy sets a minimum fund balance of 12 months (100%) of the next year's General Fund annual budgeted expenditures in unrestricted fund balance.

M/S/C (INGRAM/EDWARDS) to:

- 1) Recommend that the RCA Board of Directors adopt Resolution No. 2016-010, *A Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Adopting a Fund Balance Policy*; and
- 2) Authorize staff to agendize this matter for the June 6, 2016 meeting of the RCA Board of Directors.

(6 Ayes, 0 Nays, 0 Abstain)

11. DRAFT RESOLUTION NO. 2016-XXX, RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY IMPLEMENTING A POLICY REQUIRING A TOLLING/WAIVER AGREEMENT BY MEMBER AGENCIES DURING THE RESOLUTION OF CERTAIN FEE ISSUES

Steven DeBaun, General Counsel, gave an overview of the draft policy requiring a tolling/waiver agreement by Member Agencies during resolution of certain fee issues. He stated that because this policy deals with the MSHCP compliance rather than establishing procedures, RCA staff has not distributed this policy to Member Agencies for review and comment. He further explained that from time to time, annual audits show discrepancies which trigger discussions between the Member Agency and RCA. The purpose of this policy is to provide a requirement that after audit findings are noted, that the Member Agency is required to enter into a Tolling/Waiver Agreement with RCA. The agreement will freeze the statute of limitations and allow the Member Agency and RCA to have discussions without fear of the statute of limitations running. The policy would require that for any future fee discrepancies, an agreement be entered into within 90-days of when the audit findings are presented. For existing audit findings, RCA would require that a Member Agency who has audit findings that were presented to them after July 1, 2013 enter into the agreement. For audit findings prior to July 1, 2013, the policy specifically states that this policy is not intended to be read as a waiver of the collection of those fees. There is nothing in the proposed policy that limits RCA from taking action. Another feature of this policy is that RCA has chosen not to sunshine this for all the Member Agencies, as was done with the fee credit policy. He views this policy differently than the fee credit policy in that the fee credit policy is a procedural requirement that cities need to have a set of rules for the totality of fee credits. This policy is a compliance requirement. This will set RCA's rules for fee obligations that each Member Agency has.

Board Member Ingram took issue with the policy being applied retroactively, and would like RCA staff to revise the policy stating the tolling/waiver agreement would only be applied on a going forward basis. Steven DeBaun clarified that Member Agencies with existing deficiencies which were noted within the past three years would have to enter into an agreement because the statute of limitations is still open. Board Member Ingram expressed his opinion that this policy should not look at findings from four to five years ago because of an audit process that is antiquated. Instead, the policy needs to address how to prevent issues from happening in the future. Steven DeBaun said the rules are in place which state Member Agencies have to remit the fees. If this policy was establishing new requirements for Member Agencies to collect the fee going back three years ago, he would agree with Board Member Ingram. Board Member Ingram said it is RCA's enforcement mechanism that caused it to begin with. Chairman Montanez said part of it is the Member Agency not complying with the policy, so the only way to find non-compliance is by an audit. This policy will avoid RCA suing every Member Agency that might be out of compliance. Staff and the Executive Committee reviewed several examples of instances where the RCA and Member Agencies are working together to resolve fee discrepancies. Board Member Ingram asked if there was a way to give Member Agencies amnesty if they reported now and entered into the

tolling agreement. Steve DeBaun said not amnesty, but suggested taking the policy on a prospective basis to the Board and asking the Board to give legal counsel direction to talk to agencies that have outstanding issues from 2013 forward and report back any results. Steven DeBaun said if this this policy went forth without being retroactive, it would be much easier yet RCA would lose a lot of fees. The Executive Committee discussed with staff which Member Agencies have fee discrepancies and the dollar amount of those discrepancies.

The Executive Committee recommended that RCA staff revise the policy to be prospective and include direction for legal counsel to negotiate tolling agreements with Member Agencies that have outstanding issues from 2013 forward.

Chairman Montanez directed staff and legal counsel agendize the Tolling/Waiver Agreement Policy for discussion.

12. BOARD CALL BACK ITEMS: DISCUSSION AND POSSIBLE ACTION ON CITY OF CANYON LAKE'S REPRESENTATIVE'S REQUEST TO AGENDIZE THE CITY OF LAKE ELSINORE'S ANNEXATION OF PROPERTY IN THE COUNTY OF RIVERSIDE

Steven DeBaun and Michelle Ouellette, Legal Counsel, discussed the City of Canyon Lake's request at the May 2, 2016 Board of Directors meeting to agendize the possible annexation of a property located in the County into the City of Lake Elsinore. Charlie Landry reported that this property has been through the Joint Project Review process twice. The County's HANS determine was that the property is 100% described for conservation, and the RCA agreed with the County's determination.

Michelle Ouellette stated that the property is currently being considered for annexation into the City of Lake Elsinore. RCA has advised the City of Lake of Lake Elsinore of the County's previous HANS conculsions of 100% conservation and that RCA agrees with the County. However, it is not the RCA's place to get involved in the Local Agency Formation Commission (LAFCo) process. The Canyon Lake representative has concerns about potential development there and has asked RCA to get involved. Legal counsel is of the opinion that it is not appropriate for RCA to to be involved at this time. There is a development on the table, and RCA is not being asked to do anything. Chairman Montanez suggested that RCA staff request that RCA be notified when property within the MSHCP Plan Area is being considered for annexation.

Executive Committee Members recommended that Charles Landry, Executive Director, inform the City of Canyon Lake that the RCA Chairman and Vice Chairman determined that it was not appropriate to agendize this subject at this time.

13. EXECUTIVE DIRECTOR'S REPORT

Charles Landry reported on the following items:

13.1 Board Call Back Items – This item was discussed under Agenda Item No. 12.

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13.2 Identification Badges for RCA Board Members – County Human Resources agreed to issue identification badges to RCA Board Members. Appointments are available on June 6, 2016 before or after the Board meeting. If that date is not convenient, Board Members may contact Honey Bernas who make individual appointments.

13.3 Loan Program Update – Charlie Landry gave an update on the Loan Program.

14. FUTURE AGENDA ITEMS: *(Committee members are invited to suggest additional items to be brought forward for future discussion.)*

There were no requests for future agenda items by the Executive Committee.

15. CLOSED SESSION ITEMS:

15.1 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Subdivision (d) of
Government Code Section 54956.9

A. RIC1600058 A. T. Paulek; Friends of the Northern San Jacinto Valley v. Western Riverside County Regional Conservation Authority; Coachella Valley Conservation Commission; California Department of Fish and Wildlife

B. RIC1605515 Albert Thomas Paulek; Friends of the Northern San Jacinto Valley; Center for Biological Diversity vs. County of Riverside; Castle & Cooke Commercial-CA, Inc.; Western Riverside County Regional Conservation Authority

After closed session, the meeting was reconvened. There were no announcements from closed session.

16. ADJOURNMENT

There being no other items before the Executive Committee, Chairman Montanez adjourned the meeting at 1:25 p.m. The next meeting of the Western Riverside County Regional Conservation Authority Executive Committee will be held on Wednesday, June 15, 2016, at 12:00 p.m., at the Riverside Centre, 3403 Tenth Street, Suite 320, Third Floor, RCA Conference Room, Riverside, California, 92501.

Prepared by:


Kristin Staudenmaier
Secretary II

Respectfully submitted:


Honey Bernas
Clerk of the Board