



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 12:30 p.m., Wednesday, December 16, 2015, at the RCA Conference Room, 3403 Tenth Street, Suite 320, Riverside, California, 92501.

2. ROLL CALL – was taken by Rose Esparza.

COMMITTEE MEMBERS PRESENT	COMMITTEE MEMBERS ABSENT
Eugene Montanez, Chairman – City of Corona	Maryann Edwards - City of Temecula
Natasha Johnson - City of Lake Elsinore	John Tavaglione, Past Chairman – County of Riverside District II
Scott Miller – City of San Jacinto*	
Ben Benoit – City of Wildomar	
Ella Zanowic – County of Riverside District IV	
<i>*Departed before meeting adjourned</i>	

3. PUBLIC COMMENTS

There were no public comments.

4. COMMITTEE MEMBER ANNOUNCEMENTS

Board Member Miller advised the Committee Members and those present that this is his last meeting with the RCA and thanked everyone for the wonderful years of being part of this organization. He described it as one of the best experiences because of the type of work he was able to do as Chairman and the experience obtained outside of his council duties. He commended the RCA staff for their work performed and the experience they bring to the Authority and Charles Landry for the wealth of information he brings to the Authority. He concluded by congratulating RCA's new Chairman Montanez. He wished everyone a wonderful Christmas and God's blessing. He expressed his appreciation for the opportunity afforded him to serve on the RCA.

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Chairman Montanez thanked Board Member Miller for the time he has given to RCA and the serious approach he took.

Board Member Miller is continuing on City of San Jacinto Council and will take a respite from his assignments outside of the City Council. His the city term ends in 2018. He stated that it was a difficult decision, but at times life dictates the need.

Board Member Zanowic stated that she is an alternate and this may be her last Executive Committee meeting, depending upon the appointment of the alternate for County District 5.

Board Member Miller departed the meeting at 12:40 p.m. after his comments.

5. ADDITIONS/REVISIONS

There were no additions or revisions to the agenda.

6. APPROVAL OF MINUTES – November 18, 2015

M/S/C (MONTANEZ/BENOIT) to approve the minutes of the November 18, 2015 meeting of the Executive Committee as submitted.

(4 Ayes, 0 Nays, 0 Abstain)

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

Honey Bernas, Director of Administrative Services presented the LDMF Collection and Civic/Infrastructure Contribution Report for November 2015. The RCA received fees in the amount of \$484,602 for 136 residential units and 33.3 commercial acres. There were 39 reported exemptions totaling \$75,876. Twenty-one were in the City of Lake Elsinore and eighteen in the County of Riverside. No civic or infrastructure contributions were remitted.

M/S/C (ZANOWIC/JOHNSON) that the RCA Executive Committee:

- 1) **Recommend that that RCA Board of Directors receive and file the Western Riverside County MSHCP LDMF Collection and Civic/Infrastructure Contribution Report for November 2015; and**
- 2) **Authorized staff to agendize this matter for the January 4, 2016 meeting of the RCA Board of Directors.**

(4 Ayes, 0 Nays, Abstain 0)

8. THIRD DRAFT RESOLUTION NO. 2015-007, 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

Honey Bernas, Director of Administrative Services, reported that staff met with the County and a compromise was reached on the language in the policy. This language pertained to "RCA has approval authority." The County had an issue with and requested that the language in Section "VI. ACTION BY MEMBER AGENCIES. Nothing in this resolution impedes or limits a Member Agency's ability to approve a fee credit agreement" be removed.

Steve DeBaun, General Counsel explained that there was a compromise that allowed RCA and County to move forward. The County's position was that the original draft prevented them from entering into a fee credit agreement without RCA's approval. The same way a city might say that you can't enter into a development agreement because RCA is forcing the city to collect the fee. The Authority is not forcing Member Agencies to collect the fees in a development agreement, but the Member Agency might be responsible for the fees. The County initially removed the approval language. Legal counsel insisted that RCA have approval authority over fee credit agreements. RCA legal counsel's interpretation of the language is Member Agencies can enter into fee credit agreements, but if they don't follow the policy and fee credits are not appropriate, the Member Agency will be responsible for the fees. There are potential arguments either way.

Chairman Montanez asked how RCA is able to spell that out and ensure that everyone interprets the language the same. Steve DeBaun explained that part of the problem is that was the compromise agreed to. The resolution is very clear that RCA has approval authority. The resolution indicates that RCA has to approve the fee credit agreement, and if Member Agencies do something else outside the terms of the policy, the Regional Conservation Authority is not preventing agencies from entering into the agreement, but it is not per the terms of the resolution, therefore, the member agency is outside any blanket rights it might have. Legal counsel stated that the terms are not spelled out as well as they were in the original language, which made it very clear that Member Agencies would be responsible if they inappropriately provided credits.

Board Member Benoit asked for clarification that the language Steve DeBaun is mentioning is not in the policy now. Steve DeBaun confirmed that the language is not in the current policy. Board Member Benoit stated that is the understanding Member Agencies should have. Steve DeBaun stated that it is RCA's understanding and a reasonable interpretation. Board Member Benoit asked Member Agencies are required to notify RCA that they are providing exemptions. Steve DeBaun answered that Member Agencies are required to go through the process. Charles Landry stated that there is not currently a policy that requires RCA be notified, which is why this policy is being brought forward. Board Member Benoit said that WRCOG is working on the same policy. It was one of the Board Member's opinion that the rights should not be given to that organization. The right should stay with the city even if they are going out

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on a limb and might lose the argument later on. At least the city is notifying WRCOG that they are entering into an agreement even if WRCOG does not agree, at least WRCOG or RCA is aware of the agreement and are notified as opposed to finding out five years down the road.

Honey Bernas explained that a Member Agency entered an agreement that RCA does not agree to, the matter can be brought to the Executive Committee for a decision and ultimately brought to the full Board to make a decision on whether or not action should be taken.

Steve DeBaun stated that this provides RCA with a clear policy and notification requirements for the Member Agencies that RCA has not had before. Board Member Johnson stated that the policy affords certainty in the process for all parties. Legal counsel advised that Member Agencies need to be in compliance in order to maintain their Measure A funding.

Chairman Montanez asked what assurances RCA has that it will be notified immediately if fee credit agreements are entered into rather than years after the fact. Steve DeBaun said that Member Agencies are required to seek RCA approval before entering into an agreement. That's language is in the resolution and is very clear.

Honey Bernas expressed her optimism that the RCA and Member Agencies will reach agreement on fee credit agreements. This policy will assist Member Agencies, especially new city staff who maybe unfamiliar with the MSHCP. It is hoped that the terms of fee credit agreements can be agreed upon ahead of time in order to avoid any problems after the fact. That is the true intent of the policy.

Laurie Correa, RCA Director of Reserve Management and Monitoring, indicated that fee credits are coming up more often and the cities that are contemplating entering into agreements requested guidance on the standards. It is hoped that the policy will provide guidance and the standards.

Chairman Montanez asked if Executive Committee wanted to move this matter on to the full Board. Steve DeBaun said that is the recommendation.

M/S/C (ZANOWIC/JOHNSON) that the RCA Executive Committee authorized staff to agendize this matter to a meeting of the RCA Board of Directors.

After the vote was taken, Rose Esparza, Clerk asked for clarification on which future board meeting the Executive Committee wanted this item scheduled for. Honey Bernas answered the January 4, 2016. Board Member Benoit suggested that that RCA meet with Board Member Jeffries prior to agendizing RCA Board of Directors.

(4 Ayes, 0 Nays, Abstain 0)

9. DISCUSSION AND POSSIBLE EXECUTIVE COMMITTEE ACTION CONCERNING STATUS OF AGREED-UPON PROCEDURES

Honey Bernas, Director of Administrative Services, presented an update on development agreement exemptions and audit findings. She indicated that for the 2014 agreed-upon procedures, four reports are final and ten are in draft mode that RCA approved and signed off on. There were no findings and the auditors are awaiting member agencies' signatures. There are five drafts that identified issues and RCA staff is working with the Member Agencies to address those items. She reviewed each outstanding issue and gave an update on how RCA and the Member Agencies are working to resolve the issues. A discussion was held on when an audit takes place, when the Member Agencies are notified, and the timeframe to enforce payment. Legal counsel was asked to draft a policy requiring a tolling/waiver agreement during the resolution of fee issues.

Chairman Montanez suggested another RCA 101 Workshop. Charlie Landry advised that RCA provides training on an annual basis. Laurie Correa stated that she holds city and consultant training annually, and offers individual permittee training upon request. Board Member Benoit suggested a 15 minute introduction to training at WRCOG's TAC meeting.

10. EXECUTIVE DIRECTOR'S REPORT

Charles Landry reported on the following items:

10.1 RCA Land Acquisition Update

Charlie Landry reported that 56,000 acres is the requirement for the state and federal government and 97,000 acres is the local requirement. To date, the local acreage acquired is 31,398 for a total of 32 percent. The federal acreage acquired is 6,700, and the state acreage is 11,000, for a combined total of 18,000 acres, or 32 percent of their goal. Chairman Montanez asked if 50 percent would have been budgeted for the federal portion. Charlie Landry answered to say that it was assumed the breakdown between federal and state would be 50/50. He further stated that these numbers are going to change significantly in two months. The Bautista purchase, south of Hemet, is 2,800 acres and will be purchased with predominately federal and state funds. The state will contribute more than the required match since it is such a large purchase. The Regional Conservation Authority provided a small percentage of the cost, and the state/federal government provided the bulk of the funding. In summary, Charlie Landry, explained that with this acquisition, the percentage acquired for the state and federal acreage will exceed the local percentage.

Charles Landry reiterated that state/federal government will be ahead of RCA with reference to acreage on a percentage basis, yet over time RCA will catch up. Chairman Montanez asked where RCA is at with estimated acres acquired. Charles Landry answered that RCA is at 32 percent of acquisition, which places RCA behind the state and federal after the Bautista purchase. However, there

are 10,000 acres which are conditioned for conservation by the county and a few cities. Board Member Johnson asked if the 10,000 acres would catch RCA up. Charles Landry answered, yes, that would put RCA at approximately at 40 percent of the 97,000-acre local goal. Michelle Ouellette, general counsel, commented that there are no benchmarks, other than the 25 years, that require a certain amount of acreage be bought within a certain timeframe.

Charles Landry gave an update on cap and trade, as it already exists. He said the HCP Coalition is trying to receive a share because a lot has not been spoken for.

10.2 Follow-up Concerning RCA Board Meeting regarding amending Article IX.A.3 of the Authority's Bylaws

At the December 7, 2015 Board of Directors meeting, Board Member Jeffries requested that RCA look into amending the Bylaws to allow for election of the entire Executive Committee. Charles Landry asked for direction as to how the Executive Committee would like RCA staff to proceed. Chairman Montanez said he spoke to Board Member Jeffries after the meeting, and sent out an e-mail to all the Board Members asking if anyone was interested in serving on the Executive Committee. He received two responses from existing Executive Committee members. Board Member Johnson said she agrees with Chairman Montanez's approach via e-mail. Chairman Montanez stated that he would advise the RCA Board of Directors of this. Steve DeBaun, general counsel, suggested that a specific item on the discussion be placed on the agenda. Charles Landry suggested that it would be under comments from the Chairman.

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

Board Member Benoit asked if RCA has looked at the Bylaws with regard to rotating the Chairmanship between a County representative and a city representative. He stated that it did not appear that a County representative wanted to serve, and believed that perhaps several city council members would be interested in the opportunity. He is of the opinion that the policy should be discussed. Chairman Montanez suggested it would be a good discussion for the entire Board, not just the Executive Committee. This would provide more opportunity for other Council Members to serve as Chairman. Charlie Landry commented that the Bylaws allow for two and no more than three County Supervisors on the Executive Committee.

Honey Bernas mentioned that at the December 7, 2015, RCA Board of Directors meeting, Board Member Brown's stated that his request for information did not show up in the minutes. She researched the minutes and found that his request was reflected in the September 2015 minutes under Agenda Item No. 9 (Fiscal Year 2015 Preliminary Fourth Quarter Financial Report) where Board Member Brown was requesting information to be brought back. She further commented that Board Member Brown also mentioned his concerns on cost allocations. Charles Landry commented that there is

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nothing in the federal system that RCA is applying for that requires RCA to do any cost allocation. Board Member Johnson felt the explanation from RCA staff was more than sufficient. Honey Bernas said that Board Member Brown asked that RCA do cost allocation any way and not miss out on a chance to get grant funding should that be a requirement. She further indicated that a cost allocation study will take time and money to complete. Chairman Montanez indicated that there is no need to incur time and expense when not necessary. Board Member Benoit said that staff could bring this back to the Board of Directors indicating the cons and pros along with time and cost.

12. CLOSED SESSION ITEMS:

12A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Subdivision (d) of Government Code Section 54956.9

Two potential cases.

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

16. ADJOURNMENT

There being no more items before the Executive Committee, Chairman Montanez adjourned the meeting at 1:36 p.m. The next meeting of the Western Riverside County Regional Conservation Authority Executive Committee will be held on Wednesday, January 20, 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:



Rose Esparza
Administrative Manager

Respectfully submitted:



Honey Bernas
Clerk of the Board