

# **WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY**

## **EXECUTIVE COMMITTEE MINUTES**

**Wednesday, August 18, 2021**

### **1. CALL TO ORDER**

The meeting of the Executive Committee was called to order by Chair Natasha Johnson at 12:02 p.m., via Zoom Meeting ID: 854 0573 7808, pursuant to Governor Newsom’s Executive Order N-29-20.

### **2. ROLL CALL**

#### **Members/Alternates Present**

Kevin Jeffries  
Jeff Hewitt  
Natasha Johnson  
Lesa Sobek  
Jonathan Ingram  
Kevin Bash  
Crystal Ruiz

#### **Members Absent**

### **3. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Chair Johnson.

### **4. PUBLIC COMMENTS**

There were no requests to speak from the public.

### **5. ADDITIONS / REVISIONS**

There were no additions or revisions to the agenda.

### **6. CONSENT CALENDAR – *All matters on the Consent Calendar will be approved in a single motion unless a Board Member(s) requests separate action on specific item(s).***

Board Member Sobek requested Agenda Items 6B and 6D be pulled from the Consent Calendar for further discussion.

**M/S/C (Ingram/Sobek) to approve the following Consent Calendar items.**

#### **6A. APPROVAL OF MINUTES – JUNE 16, 2021**

**6B. WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN FEE COLLECTION REPORTS FOR JUNE AND JULY 2021**

Board Member Sobek wanted clarification on the exemptions listed for the City of Temecula and the City of Menifee fees for July. Jennifer Fuller, Financial Information Manager, noted that there was a development agreement dated back to December 17, 2002, before the plan started, that covers the exemptions. The reports are prepared on a cash basis, the cash typically comes in from the month before, so the report isn't reflecting what the City of Menifee collected in July, but rather in June. There are two year-to-date columns on the July report, one for the Fiscal Year that ended June 30, 2021, as collections are still being received, and the other for Fiscal Year ended June 30, 2022.

**M/S/C (Sobek/Hewitt) to:**

- 1) **Receive and file the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) Fee Collection Reports for June and July 2021; and**
- 2) **Forward to the Board of Directors for final action.**

**6C. SINGLE SIGNATURE AUTHORITY REPORT**

- 1) Receive and file the Single Signature Authority report for the fourth quarter ended June 30, 2021; and
- 2) Forward to the Board of Directors for final action.

**6D. QUARTERLY PUBLIC ENGAGEMENT METRICS REPORT, APRIL-JUNE 2021**

Board Member Sobek wanted to bring attention to the achievements of Cheryl Donahue for the social media increases and requested that the social media handles be added to the face agenda.

Chair Johnson noted that the social media handles are not currently on the face agenda, but it would be an easy add.

**M/S/C (Sobek/Ingram) to:**

- 1) **Receive and file report summarizing the Quarterly Public Engagement Metrics; and**
- 2) **Forward to the Board of Directors for final action.**

**7. MSHCP MITIGATION FEE IMPLEMENTATION MANUAL UPDATE**

Jennifer Fuller, Financial Administration Manager, provided a presentation on the MSHCP Mitigation Fee Implementation Manual update. The manual was approved in December 2020,

and provides guidance for fee implementation, collection, and remittance. After implementation, member agency staff found an urgent issue with residential additions and renovations prompting staff to recommend an immediate manual update.

In the 2004 Model Ordinance remodels, renovations, and minor additions were exempted from fees. The 2020 Model Ordinance is worded differently in that it only exempts remodels and renovations to the extent that they do not add additional square footage. This results in the same per unit residential fee charge to both existing homeowners adding square footage, no matter how many square feet are added, and new home builders, building an entirely new house.

The proposed update to the manual allows for homes that have previously paid the MSHCP fee no additional fees for an addition to the main home, no matter the square footage added. If the MSHCP fee was not previously paid, staff proposes to treat additions and renovations to a main home like an Accessory Dwelling Unit (ADU), applying the ADU calculation in accordance with state and government code. The ADU calculation allows for additional square footage of 749 or less to not incur a fee, 750 square feet or more would have a proportional fee based on the square footage of the addition and the size of the home. This change should be updated retroactively back to July 1, 2021, meaning any homeowner who paid a whole unit fee for their addition may be eligible for a partial or full refund.

Board Member Ingram wanted staff to elaborate on what the request for retroactive approval would mean for homeowners who had completed a renovation or addition prior to plan implementation. Ms. Fuller clarified that the retroactive request would only apply to someone who had paid the fee between July 1, 2021, and when this update receives Board approval in September. Board Member Ingram inquired whether this update would be applicable to someone who had an existing residence prior to the inception of the MSHCP, and if a fee would be imposed on them if they were to do a remodel or an addition that added square footage. Ms. Fuller explained that yes, there could be a fee imposed based on the current ordinance, the proposed update would be to limit the amount that could be charged and ensure owners who had already paid the fee, do not pay again.

Chair Johnson noted that this change would not be punitive to those that are already in process but fair to those that were pre-existing.

Board Member Ingram wanted to confirm that an existing structure, built prior to the inception of the MSHCP would be charged a fee for additions. Ms. Fuller clarified that the fee would only be for the addition if it is 750 square feet or greater.

Board Member Sobek wanted to know if there was a fee charged to homeowners in the past for additions, or if this was something new. Ms. Fuller noted that the 2004 Model Ordinance exempted minor additions but did not offer clarity on what minor meant, resulting in member agencies exempting all additions from fees. The 2020 Model Update provided clarification to what additions should be, and this update would further clarify the issue. Board Member Sobek expressed concerns with the addition of a new fee to property owners.

Board Member Ingram is concerned that with the implementation of this, as it adds a burden to the city to make sure the fee is paid and what the fee would be if a homeowner was to exceed 750 square feet. Ms. Fuller stated that the fee would be prorated on the amount of 750 square feet or above to the total of the current house and multiplied by the current density calculation.

Anne Mayer, Executive Director, clarified that the RCA adopted an implementation plan that allowed ADUs of 749 square feet or below to be exempt from fees. The policy that was adopted in the implementation manual would make that same property owner adding a room onto their house, regardless of size, subject to a fee. This update is an attempt to correct something that is currently not fair for property owners.

Board Member Ingram agreed with Board Member Sobek against this new fee and believes that an existing dwelling should be exempt from the fee if it was constructed prior to the MSHCP. He requested an explanation of what would happen if a homeowner were to build an ADU and later add an addition to the main house and whether the fees would apply to the addition. Ms. Mayer noted that if the addition is under 749 square feet, there would not be a fee.

Board Member Hewitt thanked Ms. Mayer for her clarification, and thought this update was a natural response to the new legislation coming out of Sacramento. As it is now difficult to get new homes built, new bills have come out making it easier for property owners to add ADUs, convert garages, or build room additions. Ms. Mayer agreed and noted this update was an attempt to be less burdensome to people who were trying to make relatively small additions to their properties with an ADU or addition.

Board Member Ingram inquired whether the enforcement and implementation of the new policy would be done by member agencies. Ms. Mayer confirmed that it would be, as they are the ones responsible for implementing the fee assessment at the time of permit. Board Member Ingram further inquired if there was a structure built prior to the implementation of the new fee structure, would the property owner be exempt or would a fee be associated with an addition. Ms. Fuller noted that if the MSHCP fee had previously been paid, they would be exempt no matter the size of the addition. However, if the MSHCP fee was not previously paid, and they were to build an ADU above 750 square feet, there would be a fee assessed. Board Member Ingram was troubled by this, as there is a per door cost on development, the square footage of the lot and the dwelling were calculated to determine the fee paid without consideration to any ADU impacting the MSHCP or justification for the additional cost.

Steve DeBaun, legal counsel, noted that the MSHCP fee is a regional fee, and it is not based on disturbance or size of the dwelling on a residential level. Adding a whole new living unit, or an ADU, would also likely add a new family that would have regional impacts, making it similar to building a new single-family home. The Nexus Study Update classified ADUs as a separate new impact and are thereby subject to a fee based on size.

Board Member Sobek made a motion to only move this item forward to the Board for discussion.

Chair Johnson asked the Executive Committee to have their comments ready when the item goes to the Board of Directors, as it would be helpful for the full board to have their perspective.

**M/S/C (Sobek/Ingram) to:**

**1) Forward to the Board of Directors.**

## **8. EXPLORATION OF RCA DIRECT COLLECTION OF LOCAL DEVELOPMENT MITIGATION FEES**

Aaron Hake, Interim Regional Conservation Deputy Executive Director, provided a presentation on Direct MSHCP Fee Collection. Board Members have voiced an interest in RCA directly collecting the MSHCP fee, which is imposed by each city and the county. The intent of this agenda item is for the Executive Committee to provide a formal recommendation to the Board on whether staff should invest agency resources into evaluating what it would take for RCA to directly collect fees from developers. The issue of prepayment to avoid a fee increase is a separate matter and is based on the ordinances and policies of each member jurisdiction.

The current fee collection process entails: the city or county determining the fee based on their own ordinances and processes, remitting the fees to RCA within 90 days; RCA records the fees, prepares monthly reports to the Board, and yearly certifies to RCTC that member agencies are participants in the MSHCP program to determine eligibility for Measure A funds; and yearly the RCA obtains an auditor to determine if the fees collected are in accordance with the MSHCP, JPA, and Measure A requirements. If RCA was to become a fee collection agency most of the process would remain the same. The changes would be the cities and county would no longer collect fees and remit them to RCA, and RCA would no longer receive the fees from the city and county. The cities and the county would still be responsible for imposing the fee and ensuring the applicants paid, as RCA would not become responsible for enforcement of payment.

To make this change, getting the new system right is a matter of credibility for the Board, staff, and the organization as a whole. The four points to consider are efficiency, logistics, financial implications, and implementation schedule. If the Board decides to continue down the path of RCA collecting fees, the next steps would be to procure a business consultant to analyze and evaluate options and costs for the Board to consider, and eventually implementation of the new software and financial processes.

Chair Johnson wanted to discuss the issue of prepayments and if the new process is implemented, what the internal audit process would look like. Mr. Hake noted that the issue of prepayment was a hot topic recently, as developers were trying to pay fees ahead of the fee increase. After the Board adopted the Nexus Study Update, RCA communicated to each member agency that accepting of prepayments was up to the jurisdiction. The manner and method of collecting the fees is in each jurisdiction's domain based on their policies and ordinances and the RCA does not have legal authority to override how cities or the county

collects a fee per their own ordinances and processes. If a member agency has decided it won't allow prepayment of fees, RCA is not be able to supersede the decision and collect the fee.

Theresa Trevino, Chief Financial Officer, added that an audit process would still be required to make sure the fees have been calculated correctly at the jurisdiction level. Continuing the discussion with WRCOG about their audit process would also be helpful to define what the new RCA process should be.

Chair Johnson expressed concerned with the timeline, it would be adding a new responsibility, as it was not one of our original priorities. It might be a better approach to finish the priority list first and add this to the next step list to be a better, more efficient agency.

Board Member Sobek agreed with Chair Johnson, while this is a good idea, the timing isn't right. This could be something to look at in a year or 18 months, after the transition to RCTC is complete.

Board Member Ingram noted that the last 6 years of audits performed on the jurisdictions caught less than 3%. While this doesn't need to be on an expedited timeline, it is something that should be done. If everyone was going through one system, and approved applications from the city are put through, it takes the city out of the equation so there shouldn't be as many errors and anomalies.

Board Member Jeffries was opposed to this concept when it came up at WRCOG, at the same time, it is recognized that not all member agencies have the resources or staff to deal with calculations and payments. There is a benefit to starting this, but it should be completely voluntary as to whether a member agency surrenders their authority over to the RCA.

Board Member Ingram stated that no one should surrender their authority, but rather have it structured so the fees could be implemented fairly and correctly to developers who have multi-year permits.

Chair Johnson reiterated an opposition to the timing of this change, as so much time was spent on creating a vision for what was a priority.

Board Member Hewitt noted that when WRCOG first started talking about this, small cities were happy with the change, as they did not always have the staffing to calculate fees. When WRCOG decided to accept the payments, they also started doing the calculations for the jurisdictions. This proposal is not same, as the member agencies will still be responsible for the calculations. The only obvious benefit would be cutting the 90-day lag time between collection and receipt of funds to RCA. The big question is whether the RCA should pay a consultant \$50,000 and hire an extra person for about \$150,000 a year to be able to get the cash in the bank earlier.

Board Member Sobek made a motion to table this discussion for a year from now.

Anne Mayer, Executive Director, thanked the Board for their discussion, as it was helpful. One of the reasons for a consultant, if RCA were to start this process now, is due to the loss of half of the Finance Department with the merger of RCTC and RCA. A new person was hired and is currently training, the fourth and final position should be filled by January 2022. Next year, at this same time there would be staff on board, and RCA would likely be able to reduce the external costs.

Board Member Sobek asked when the transition process would be complete. Ms. Mayer noted the transition would be complete in 2023.

Board Member Sobek revised her motion to ask that this discussion be tabled until the transition phases are complete.

**M/S/C (Sobek/Hewitt) to:**

- 1) Receive and file a presentation regarding the Multiple Species Habitat Conservation Plan (MSHCP) Local Development Mitigation Fee (LDMF) collection and oversight process;**
- 2) Discuss and provide direction to staff related to an assessment of the potential for RCA to directly collect LDMF on behalf of RCA Member Agencies; and**
- 3) Table this discussion until the completion of the RCA and RCTC transition phases.**

## **9. ACQUISITIONS STATUS REPORT**

Chair Johnson noted that this agenda item came from a suggestion from Board Member Sobek, which was a great idea to help the Board know where RCA was with properties regularly.

Hector Casillas, Right of Way Manager, provided a snapshot of acquisitions RCA was currently pursuing. Between January 1<sup>st</sup> and July 31<sup>st</sup>, RCA had closed on 11 escrows. Currently, staff is managing 46 active parcels, of these 21 are grant acquisitions, 11 are from willing sellers, 8 are development HANS, and 6 are non-development HANS.

- 1) Receive and file the acquisitions status report as of July 31, 2021; and**
- 2) Forward to the Board of Directors for final action.**

## **10. LEGISLATIVE UPDATE**

David Knudsen, Interim External Affairs Manager, provided an update on state and federal legislative activities. The state legislature returned from a month-long summer recess, with December 10<sup>th</sup> being the deadline to pass legislation. Legislators will be voting on policy and finalizing budget trailer bills associated with the enacted 2021/22 State Budget. Budget trailer bills providing programmatic allocations authorized in the previous budget bill framework, including the climate resiliency budget package are being closely monitored by staff.

The Senate passed the bi-partisan Infrastructure Investment and Jobs Act, a roughly \$1.2 trillion infrastructure package that includes \$550 billion in new spending over the next five years. Although staff was working closely with Senator Feinstein's office to complete the senate version of Representative Calvert's Western Riverside County Wildlife Refuge Bill, it was not finalized in time to be included. Legislative Affairs staff will continue to work with Senator Feinstein's office to complete the Senate Refuge Bill in hopes it will be introduced soon.

Regardless of legislative activities taking place, the Legislative Affairs team continues to work on the broad range of issues related to land acquisition and policy at the state and federal level.

- 1) **Receive and file an update on state and federal legislation; and**
- 2) **Forward to the Board of Directors for final action.**

#### 11. **BOARD OF DIRECTORS / EXECUTIVE DIRECTOR REPORTS**

Chair Johnson reminded Board Members that this is the time in which members could bring up any ideas or comments they may have.

Anne Mayer, Executive Director, thanked the Board Members for their input and feedback on the important policy discussions.

#### 10. **ADJOURNMENT**

There being no further business for consideration by the Executive Committee, Chair Johnson adjourned the meeting at 1:07 p.m. The next meeting of the Executive Committee is scheduled to be held on **Wednesday, September 15, 2021**, March Field Conference Room, Third Floor, County Administrative Center, 4080 Lemon Street, Riverside.

Respectfully submitted,



Lisa Mobley  
Administrative Services Manager/  
Clerk of the Board