

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY

EXECUTIVE COMMITTEE MINUTES

Wednesday, May 18, 2022

1. CALL TO ORDER

The meeting of the Executive Committee was called to order by Chair Natasha Johnson at 12:03 p.m., via Zoom Meeting ID: 895 9038 8541, in accordance with AB 361 due to state or local officials recommending measures to promote social distancing.

2. ROLL CALL

Members/Alternates Present

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

Members Absent

Kevin Bash

*Arrived after the meeting was called to order.

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. CLOSED SESSION

At this time, Steve DeBaun, general counsel, announced the Board would be going in to Closed Session to discuss the item on the agenda.

At this time, Board Member Sobek arrived.

6A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Name of Case: FERC Project P-15261-000

6B. REPORT OUT FROM CLOSED SESSION

Mr. DeBaun reported that during Closed Session the Board authorized legal counsel to intervene in FERC Project P-15261-000.

7. 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 Item 7G be pulled from the Consent Calendar for further discussion.

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

7A. APPROVAL OF MINUTES – APRIL 20, 2022

7B. WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN FEE COLLECTION REPORT FOR MARCH 2022

- 1) Receive and file the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) Fee Collection Report for March 2022; and
- 2) Forward to the Board of Directors for final action.

7C. ACQUISITIONS STATUS REPORT

- 1) Receive and file the acquisitions status report as of March 31, 2022; and
- 2) Forward to the Board of Directors for final action.

7D. JOINT PROJECT REVIEW STATUS REPORT

- 1) Receive and file the Joint Project Review (JPR) monthly status report as of April 30, 2022; and
- 2) Forward to the Board of Directors for final action.

7E. QUARTERLY INVESTMENT REPORT

- 1) Receive and file the Quarterly Investment Report for the quarter ended March 31, 2022; and
- 2) Forward to the Board of Directors for final action.

7F. QUARTERLY FINANCIAL STATEMENTS

- 1) Receive and file the Quarterly Financial Statements for the nine months ended March 31, 2022; and
- 2) Forward to the Board of Directors for final action.

7G. QUARTERLY PUBLIC ENGAGEMENT METRICS REPORT, JANUARY - MARCH 2022

Board Member Sobek wanted more information on the paid advertising on Facebook for the species of the month to be spotlighted and whether that was an inexpensive way to highlight the RCA.

Cheryl Donahue, Public Affairs Manager, noted that small amounts of money have been budgeted to help boost some social media posts that have widespread interest. The species spotlight has been one such post to help boost RCA's social media following. Each month, during the building and review of the social media calendar, certain posts are designated for spotlighting, and so far, there have been good results. These spotlights can target various groups such as schools or by zip codes, making it a cost effective, efficient way to reach a broader audience.

Board Member Sobek wanted to know if the RCA had received any feedback from schools, the districts, or teachers as to whether this was a benefit to learning about Riverside County and its endangered species. Ms. Donahue stated that no specific feedback has been received from schoolteachers or administrators about the posts, but RCA will continue to attempt to make inroads.

Chair Johnson asked what kind of analytics RCA had on the reach of the post. It was requested that staff show the progression as growth occurs. Reviewing that could help decide the metric that tells the RCA if this approach is working. Ms. Donahue added that when the metrics are prepared, they are compared from quarter to quarter.

Chair Johnson wanted to know how the metrics reporting could be more specific about the demographics that are being reached.

Board Member Sobek thought the more attention that could be brought to the RCA in Riverside County, the better. Ms. Donahue stated that RCA does have the ability to pull the analytics from specific posts.

Anne Mayer, Executive Director, noted that the analytics for posts are used to help determine which kinds of posts are worth investing in to broaden the appeal. RCA has been trying to find the kinds of information that will resonate with people, with species of the month being one of them.

M/S/C (Sobek/Johnson) to:

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

7H. STATE AND FEDERAL LEGISLATIVE UPDATE

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

7I. RECURRING CONTRACTS FOR FISCAL YEAR 2022/23

- 1) Approve the single-year recurring contracts in an amount not to exceed \$3,392,466, for FY 2022/23;
- 2) Approve the recurring contract for specialized services in an amount not to exceed \$6,500 in FY 2022/23 and \$26,000 in FYs 2023/24 – 2026/27;
- 3) Authorize the Chair or Executive Director, pursuant to legal counsel review, to execute the agreements on behalf of RCA; and
- 4) Forward to the Board of Directors for final action.

8. ADOPTION OF FISCAL YEAR 2022/23 BUDGET AND APPROVAL OF THE BIOLOGICAL MONITORING PROGRAM WORKPLANS

Jennifer Fuller, Financial Administration Manager, provided a presentation on the Fiscal Year 2022/23 Proposed Budget. RCA's budget preparation began in January, with finance staff working with program staff to compile budget data and revenue estimates. Staff prepared an Executive Summary with all budget related information in one document. The document includes budget policies, goals and objectives, a budget overview with a discussion on the sources and uses of funding, program initiatives, fund balances, and a budget summary including the budget schedule. The Executive Summary also include three appendices, the first being a glossary of terms and acronyms. The other two appendices are the FY 2023 work plans that describe the monitoring activities planned and a schedule for field work with a cost estimate for personnel and operations.

The MSHCP requires a Biological Monitoring Program to collect data on the MSHCP's 146 covered species and their associated habitats, as well as to assess the MSHCP's effectiveness at meeting conservation objectives. The Monitoring Program administrator submits an annual work plan and cost estimate to be approved by the Board of Directors. The other work plan is related to the Clinton Keith Road Over Crossing Mitigation Monitoring reimbursable program. In this program the Riverside County Transportation Department reimburses RCA using bank fee credits.

The Executive Summary codifies budget policies related to endowment, habitat acquisition, program administration, and the Legacy Home Rebate Program. In accordance with past practice, 10% of participating special entity revenue will be allocated to the endowment for future preservation and the 2020 Nexus Study recommends that 15% of Local Development Mitigation Fees (LDMF) revenue be allocated to the endowment.

The MSHCP allows property owners who do not intend to file a development application to submit their properties for evaluation and possible acquisition under the Habitat Acquisition

Negotiation Strategy (HANS) process. The plan requires separate accounting, and a priority list must be established for properties in this category. Yearly, the Board of Directors must set the non-development HANS funding level. Consistent with the FY 2022 Budget, staff recommends allocating 5% of LDMF collections for the acquisition of non-development HANS properties in FY 2023.

The economic stability policy requires a minimum cash-level of \$9 million be maintained to continue operations for at least 18 months. The LDMF revenues will be allocated to program needs related to habitat acquisition, reserve monitoring and management, program administration, and endowment funding in accordance with the 2020 Nexus Study. Costs will be charged to the appropriate program and the LDMF revenues will be used to the extent that other funding sources are not sufficient to cover the programs. The fund balance policy requires RCA to maintain at least one-year of general fund balance expenditures in reserve.

RCTC incurs costs on behalf of RCA, for which RCA reimburses RCTC. RCA will deposit an amount equal to an estimated 2 months of invoices with RCTC to allow for payment before reimbursement occurs.

The Legacy Home Rebate Program funding will begin this fiscal year, with a set aside of over \$70,000 for rebates.

Staff anticipates beginning the fiscal year with \$78 million in remaining fund balance. Nearly two-thirds of this amount, \$51.9 million, is restricted in how it can be spent or is for non-spendable endowments. Another nearly 11%, \$8.2 million, must be maintained according to the fund balance policy. Currently, there is more demand for RCA to purchase properties than the supply of funds. History has shown that the main revenue source fluctuates with the economy, maintaining healthy reserves helps RCA continue the mission of the MSHCP, even in down years. FY 2023 estimated sources are budgeted at \$34.6 million, with estimated uses budgeted at \$32.1 million. Sources will exceed uses by \$2.5 million, related to endowment funding.

Major funding sources for the RCA include: LDMF, state and federal grants, land donations, tipping fees from Riverside County, and Transportation Uniform Mitigation Fees (TUMF). The LDMF revenues represent 49% of sources. State and federal grants represent less than 1% of sources and include the possible purchase of two properties using the Jurupa Mountains Grant and the Local Assistance Grant for evaluating the Quino-checkerspot butterfly habitat. Staff has submitted a grant application for the 2022 non-traditional Section 6 grant, when the grant is secured, staff will return to the Board with a budget adjustment to spend the funds. Land donations account for about 25% of revenues, staff anticipates the acquisition of three land donations with an estimated value of \$8.6 million and nearly 170 acres in FY 2023. Out of county tonnage is expected to remain close to current year levels and is budgeted for \$3.7 million for approximately 2.4 million tons, representing about 11% of sources. Based on current year collections and WRCOG's projections for FY 2023 TUMF revenues, staff projects \$750,000 in revenues, representing about 2% of sources. Other revenue sources make up 3%, and include reimbursements for services, civic and infrastructure contributions, interest, and

other revenue. The operating transfers in relate to funding for reserve management and monitoring and program administration that are covered by LDMF revenue, about 10% of sources. An identical amount is included in the habitat acquisition budget as operating transfers out.

LDMF collections peaked last year, and staff anticipates that FY 2023 revenues will grow slightly to \$16.8 million, the increase being due to the Consumer Price Index (CPI) increase. The LDMF fluctuates with the economy, and the budgeted amount is like a conservative projection. Staff will monitor LDMF revenue throughout the fiscal year, bringing forward a budget adjustment if the collections are markedly different from the projections.

Revenues are projected to be stable and in-line with the FY 2022 Amended Budget, except for state and federal grants. As stated previously, staff has applied for funding with the 2022 non-traditional Section 6 grants, but the package will not be awarded until next fiscal year. LDMF fees are projected to increase by 5% from the FY 2022 Amended Budget revenues.

RCA's spending for its' four programs is consistent with RCA's core responsibilities under the MSHCP and the 2020 Nexus Study. Habitat acquisition decreased 13% from the FY 2022 Amended Budget mostly due to the decrease in federal and state grants. Reserve monitoring and management increased slightly by 10%. This increase relates to the rising contract costs from vendors and budget for a new contract related to enforcement on RCA owned lands. Program administration increased 18%, this increase is related to increased contract labor cost and administrative costs related to the management services agreement with RCTC. RCA will process most account payables through RCTC's financial system, increasing contract management and transparency.

Habitat acquisition represents 74% of total uses with reserve management being about 13% and program administration only 12%. The endowment with only a little over \$48,000 in projected uses, represents less than 1% of the budget.

General administration expenditures reflect an 8% increase from the FY 2022 Amended Budget. Many of the administrative costs previously budgeted are now incurred by RCTC and reimbursed by RCA. These costs are now accounted for in contract costs. Contract expenditures reflect a 16% increase over the FY 2022 Amended Budget. Major contracts include the following: management services agreement with RCTC; land management services with Riverside County Parks budgeted at nearly \$1.6 million, a 9% increase related to staff pay increases and the addition of a new position; and biological monitoring services with the Santa Ana Watershed Association (SAWA) estimated at just over \$1.6 million, a 10% increase related to staff pay increases approved by SAWA. FY 2022 saw the final payment on debt service related to a loan agreement with the County of Riverside to acquire 226 acres of reserve land. Assessments and fee expenditures of \$80,000, represent special assessments including homeowners' association fees for RCA owned lands subject to such fees. Habitat acquisition and maintenance budgeted expenditures of \$17.1 million, reflecting a 17% decrease.

The FY 2023 Proposed Capital Outlay Budget anticipates costs related to the acquisition and improvement of habitat acquired including \$8.4 million for approximately 1,017 of possible additional reserve lands, \$8.6 million related to donated lands, and \$45,000 in potential acquisitions related to state grant funds. Habitat acquisition costs include the purchase price of the property acquired, appraisal and title reports, real estate services, legal services, environmental reviews, surveying, and other costs associated with the acquisition of habitat. The 2020 Nexus Study permits the use of LDMF revenues for all functions of the RCA. Operating transfers out relate to the transfer of LDMF revenues from the capital projects fund to the general fund to meet budget needs for reserve management monitoring and program administration.

Beginning in July, staff will begin to process most invoices through RCTC's financial system, increasing contract oversight and transparency. All other financial transactions will continue to be completed through the County of Riverside's financial system. This change is the most significant driver of the increase in management services reimbursements to RCTC, accounting for 81% of the increase. This will be an administrative shift in how RCA does business and which financial system pays the bills. This is not a true increase in cost for the management services contract, as whether the bills are paid through the County or RCTC's financial system, the bills would still be paid. Overall, management services include RCTC's staff salaries and benefits of \$3.7 million and general administration costs of \$3.7 million related to an estimated administrative cost allocation, Board stipends, facilities maintenance and capital outlay, legal and audit services, public outreach, legislative advocacy services, and other miscellaneous costs. Real property services of nearly \$770,000 relate to habitat acquisition, \$2.2 million for management and monitoring contracts, and \$70,000 for the Legacy Home Rebate program.

Chair Johnson commented that the 10% increase in reserve monitoring management due to additional challenges and damage done to the land should help the rangers with enforcement.

M/S/C (Ruiz/Sobek) to:

- 1) Adopt the FY 2022/23 Budget and related Resolution No. 2022-005, "Resolution of the Board of Directors of the Western Riverside County Regional Conservation Authority Adopting the Fiscal Year 2022/23 Operating and Capital Budget Including Budget Policies";**
- 2) Approve the Biological Monitoring Program Work Plan and Cost Estimate included as Appendix B in the FY 2022/23 Budget;**
- 3) Approve the Clinton Keith Road Overcrossing Mitigation Monitoring Reimbursable Program Work Plan and Cost Estimate included as Appendix C in the FY 2022/23 Budget; and**
- 4) Forward to the Board of Directors for final action.**

9. PREPAYMENT OF LOCAL DEVELOPMENT MITIGATION FEES / EXPLORATION OF RCA DIRECT COLLECTION OF LOCAL DEVELOPMENT MITIGATION FEES

Matt Wallace, Deputy Director of Financial Administration, provided a presentation on the prepayment of Local Development Mitigation Fees and RCA direct collection. Executive Committee Members requested staff to provide an update of which member agencies accept prepayment of the MSHCP fee and to discuss an issue that this committee had previously tabled, which is RCA direct collection of the MSHCP fee. Prepayment and RCA direct collection of fees are two distinct and separate matters, one is an administrative matter that RCA can change, and one RCA cannot and is a legal matter of local control.

As required by the MSHCP and Implementing Agreement, all RCA member cities and the County adopted a new MSHCP fee ordinance to implement the 2020 Nexus Study. RCA contacted member agencies to learn whether each agency accepts prepayment of MSHCP fees. It is important to note that not every agency that accepts prepayment does so in every circumstance. For instance, one city has told RCA that it wants to retain flexibility to allow prepayment only for those applicants that have made substantial progress through the entitlement process, otherwise it does not want the burden of tracking an applicant's payment over a long period of time.

Allowance of prepayment is determined by each member agency's ordinance, which includes language that sets when the fee is calculated, either at the time of payment or time of permit issuance, and each city and the County's administrative procedures. Each city and the County decide at which stage of the development process to collect the MSHCP fee and whether to accept prepayment, not RCA. RCA supports member agency decisions in this area and considers it to be at city/County discretion. RCA approval is not required, and RCA does not supersede member agency adopted ordinances. According to the MSHCP and Implementing Agreement, development fees are directly imposed by the land use authorities and not the RCA. As part of its outreach to member agencies and to ensure compliance, RCA sent correspondence outlining the roles and responsibilities for each member including the topic of prepayment of fees.

As to the issue of RCA directly collecting MSHCP fees, in 2021, RCA Board Members requested staff to evaluate implementing a change in the process by which the MSHCP fee is collected by member agencies. At that time, Board members suggested that by RCA directly collecting the LDMF on behalf of the member agencies, administrative costs to member agencies may be reduced and streamlining may occur. At the August 18, 2021, Executive Committee meeting, staff presented an item regarding the exploration of RCA direct collection of LDMF. The intent of the item was for the Committee to provide a 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.

Staff proposed a budget and next steps towards a direct collection program if the Board wished for RCA to implement direct fee collection. Staff's recommendation was to set aside \$50,000 to retain a consultant to assess all the issues related to direct fee collection and propose an implementation process. Retaining a consultant was necessary because staff does not have the

capacity or expertise to develop such a program. At the conclusion of the discussion, the Committee voted to table the item until the RCTC/RCA management transition phases are complete, which is anticipated to be in late 2023.

Fee collection currently sees all western county cities and the County collect fees according to their own ordinances and land use permitting processes and then within 90 days remit the fees to RCA with reporting documentation. RCA records the fees and reports them to the Board and the public monthly. Every year, RCA retains an auditor to review each agency's compliance with the collection and remittance of fees. Finally, RCA certifies to RCTC whether each agency is a participant in the MSHCP so that RCTC can determine eligibility for Measure A local street and road funding.

If RCA becomes a fee collection agency, the majority of this process would remain the same. What would change is fee collection would become RCA's responsibility and there would be no need for remittance of the fee between agencies. This would be an administrative shift in responsibilities, not a legal shift in responsibilities. Cities and the County would still be responsible for imposing the MSHCP fee and ensuring that applicants pay. RCA would not become responsible for enforcement of payment, land use decision-making, or implementation of any ordinance. RCA directly collecting the MSHCP fee would not relieve member agencies from the audit process for MSHCP compliance.

The issue of prepayment allowance is based on ordinances and policies of each member agency. RCA does not have the authority to preempt city and county ordinances or existing permitting processes. The issue of RCA directly collecting fees is an administrative process that could be implemented with adequate time and due diligence if the Board wishes for RCA to do so.

As directed by the Board, RCA staff's primary focus since the transition to RCTC has been on key objectives such as the acquisition of land, sustainability of the MSHCP, improving the engagement with stakeholders and strengthening the agency's presence in Sacramento and Washington, D.C. If the Committee requests staff to pivot resources and move forward in determining the feasibility for RCA directly collecting the MSHCP fee, staff maintains its recommendation from August 2021 that RCA procure a consultant to conduct the assessment of how a direct collection system could work.

As the Committee discusses this question, RCA staff does not have a predetermined view on whether RCA should take on the role of direct fee collection. This is a Board policy decision, and staff will operate according to the Board's direction last year to table this item until at least the end of 2023.

Board Member Sobek thought that this issue has been discussed at length, and with the report given RCA should not reinvent the wheel. The funding this endeavor could take away from other things that RCTC is trying to do is concerning. As the collection is a city and County policy, they should continue to handle this as they have been.

Chair Johnson wanted to clarify whether the consultant that would be needed has been budgeted. Mr. Wallace stated that it was not currently budgeted.

Board Member Ingram thought it was clear there was no support for RCA's direct collection of fees. There are already fees that are applied to monitoring what the cities are doing and there is staff that does that now. The costs associated with WRCOG's direct collection of fees is passed back on to developers or applicants, so there is no cost to it. The premise behind RCA collecting fees was to get rid of the random audit process. Projects that get approved and then are shelved can cause a great deal of issues as they continue to accrue costs annually until they are paid. Those issues were behind moving to have RCA directly collect fees. RCA directly collecting fees does not give the applicant or developer leeway to modify without having to pay additional fees. This process would not take away any city's rights or absolve them of any responsibilities.

Chair Johnson expressed understanding with Board Member Ingram but thought that some of the issues mentioned were due to antiquated processes and management. The random audit process was a needed component as RCA did not have the assurance of certainty in the process. The new management and the new process saw zero audit issues last year. The majority has spoken, and this is something that will be brought back in the later part of 2023, and the Board will decide then if this is something RCA wants to undertake and budget appropriately.

- 1) Prepayment of Multiple Species Habitat Conservation Plan (MSHCP) Local Development Mitigation Fees (LDMF); and**
- 2) Update on the exploration of RCA direct collection of LDMF.**

10. BOARD OF DIRECTORS / EXECUTIVE DIRECTOR REPORTS

At this time, Board Member Hewitt arrived.

Chair Johnson announced that this Executive Committee meeting would be Board Member Sobek's last. Board Member Sobek will remain on the RCA Board but will no longer be an Executive Committee Member. Chair Johnson thanked Board Member Sobek for her service and offered appreciation for her value, insights, and contributions.

Board Member Sobek thanked Chair Johnson for her comments and noted that she has enjoyed serving on the Executive Committee. She has received an assignment from her church to be missionaries in Riverside County.

Chair Johnson noted that according to the bylaws, the chair can appoint a replacement for Board Member Sobek. Chair Johnson asked that if any Committee Member has a recommendation to please send her an email.

Anne Mayer, Executive Director, thanked Board Member Sobek on behalf of the RCA staff members for her service on the Executive Committee. As mentioned in the budget presentation, the LDMF will have a Consumer Price Index (CPI) adjustment this year. Per the MSHCP implementation manual, the fee adjusts annual by the change in CPI. The CPI is

determined based on the Riverside, San Bernardino, and Ontario Metropolitan Area. This year, the CPI increase is 8.592%. These types of CPI increases are certainly out of the norm. The member agencies are required to implement the CPI adjustment on July 1st and begin collecting fees at the 2023 rate. The notice of CPI increase went out to all member agencies on May 12th, additionally all fee forms have been updated and provided electronically to member agencies.

Ms. Mayer congratulated Aaron Hake on his appointment to the RCTC Deputy Executive Director position, effective June 30th. John Standiford the current RCTC Deputy Executive Director since 2008 is retiring at the end of June. Mr. Hake will now have additional responsibilities agency-wide for RCTC and will be part of the Executive Team leading the organization and its mission. He will retain responsibilities for oversight of RCA functions. Ralph Anderson and Associates has been hired to conduct a recruitment for a Regional Conservation Director. The position will be part of the management team, reporting directly to Mr. Hake, and handling the day-to-day activities for RCA.

Chair Johnson congratulated Mr. Hake on his new position.

Board Member Sobek congratulated Mr. Hake, wishing him the best in his new position.

Chair Johnson noted that there was a lot of data reviewed today with limited questions, meaning that staff is doing good work in preparing presentations.

11. ADJOURNMENT

There being no further business for consideration by the Executive Committee, Chair Johnson adjourned the meeting at 1:11 p.m. The next meeting of the Executive Committee is scheduled to be held on **Wednesday, June 15, 2022**.

Respectfully submitted,



Lisa Mobley
Administrative Services Manager/
Clerk of the Board