

# MINUTES

## EMARCD

### Elsinore-Murrieta-Anza Resource Conservation District

Thursday, November 12, 2015 4:00 PM

Truax Building

41923 Second Street, Ste. 401

Temecula, Ca 92590

Call to Order-4:05 pm, meeting recorded by Carol Lee Brady

Flag Salute

Roll Call:

Directors: Danny Martin, Dave Kuhlman, Carol Lee Brady,

Absent: Directors Rose Corona and Vicki Long

Associate Directors: Rick Neugebauer, Dave McElroy, Randy Feeney-All present

Deputy Counsel: Melissa Cushman-Riverside County Counsel-Present; County Counsel-Greg Priamos-Absent

Bob Hewitt-Absent

Public: None

**MOTION TO APPROVE AGENDA-** Motion made by President Martin to approve agenda. Director Brady seconds the motion. Motion passed – 3-0

**CONSENT CALENDAR:** Motion made by Director Martin to approve consent items. Director Kuhlman motioned to pass the consent items. Director Brady seconded. Call for vote. Approved and passed 3-0.

**ITEM 3-CORRESPONDENCE-** Director Martin noted that the packet contained a few letters and asked if there were any specific questions regarding any of the correspondence. Since there were no questions on the Correspondence, Director Martin made a motion to approve all the items to be accepted into the district records. Seconded by Director Kuhlman. Call for vote. Motion passed 3-0.

## **ACTION ITEMS:**

### **1. DISCUSSION OF POTENTIAL CONSOLIDATION WITH RCRC-MELISSA CUSHMAN**

Due to the fact that the board was missing two board members at this meeting who would be unable to hear or discuss the consolidation process, Director Martin moved to have the discussion tabled until a future date and seconded by Director Brady.

Associate Director McElroy interjected a brief comment that the Board may want to look at as a possibility is if the Board didn't want to completely merge, what was the possibility of have only a part of the District's area merged. In particular, the area of the Santa Ana Watershed with merging with Riverside Frontland.

Counsel Cushman indicated that Counsel had not looked into it but it was a possibility to do so. Director Martin suggested that it also may be something worthwhile to look into and thus the importance of having all the board members present.

Associate Director Neugebauer suggested that for when that information is available in order to discuss perhaps in January. Director Martin indicated that the Board was dark in January and pick up again in February. No further discussion

### **2. DISCUSSION AND UPDATE OF TEAM RCD NAME CHANGE-(Item a appears to be skipped and moved forward to Item b to discuss the 1600 permits and the potential effects of how the name change may affect the permits.**

Associate Director Neugebauer indicated that he had called Fish and Game a few times but with no response. Counsel Cushman indicated she had searched the website but it had been down for the past three weeks so she could only access old versions of it. Counsel indicated that if the District wanted to make a minor change, the District has to ask Fish and Game to do so. According to her research and the 2008 figures, the District would pay a fee of \$150.00 but that might not be the present charge, and then Fish and Game has the discretion to approve it or not. Director Martin had made three calls to Fish and Wildlife and also had received no response. Counsel suggested that if we want to move forward, the District will be able to get the application form and send it in at some point and it could sit on the desk as long as Fish and Wildlife chooses. The name for EMARCD has not been officially changed by the Board of Supervisors yet and was not scheduled on the Agenda for their most recent meeting. Counsel Cushman said she would check and if it wasn't on the upcoming agenda for Board of Supervisors, she would put it on for the following one which would be December 8, 2015.

Counsel Cushman went on to indicate that once the Board of supervisors approves the change it is still not final. The Board of supervisors then sends it to the State Board of Equalization and they have the final say according to the code.

This led to the third item regarding the potential impact on the Federal ID but again this appeared to need more research and concrete information. Associate Director Neugebauer indicated that he thought that this might be very simple but Director Martin indicated that he tried to go on the IRS site and make changes but that wasn't possible.

### **3. DISCUSSION OF CHANGE OF ADDRESS TO PO BOX AND POTENTIAL APPROVAL OF YEARLY FEE PAYMENT**

Director Martin indicated that due to the closing of the District office that the mail was being sent to Supervisor Jeffries offices on an interim basis. Due to a request by the Supervisors offices regarding certain issues that came up in having the mail forwarded there, it was recommended that we get a Post Office Box or similar for our mail.

Director Corona, according to Director Martin, had looked into several choices including the US Post Office and Postal Annex type facilities. AD Neugebauer added that in making a choice the District should consider that facilities other than the US Post Office, don't forward your mail if you choose to move again. Therefore it might be in the best interest of the District to stick with a Post Office Box at the Post office itself.

The other request was to pay the yearly fee in advance for the PO Box to prevent the monthly charge to cover the cost. Director Martin made a motion that the District choose to rent a Post Office Box at the local Post Office and pay the yearly fee upfront of \$80.00. Director Brady seconded. No further discussion. Call for vote. Motion passed-3-0.

### **4. DISCUSSION OF SERVER AND POTENTIAL PAYMENT IN ADVANCE OF FEES FOR E-MAILS – RANDY FEENEY**

Associate Director Feeney discussed the need for e-mail communication and that the present company that hosts the server for the EMARCD also could provide e-mail addresses at a cost of \$50 per month or \$600.00 per year. This would give the District up to 50 e-mail addresses if necessary for the monthly fee.

Each Director and Associate Director along with Counsel would have an e-mail address which would have the person's name as follows: director.name@emarcd.org. The district could also have generic e-mails such as info@emarcd.org or mitigation@emarcd.org for those areas and individuals who would be addressing particular issues on behalf of the District.

Director Martin asked about security and if someone left the board, could e-mail access be declined or removed. AD Feeney indicated that it could. The e-mail accounts could be sent out to individual e-mail accounts (much like a phone extension) in order for the appropriate person to take action on it.

The conversation then moved forward to a phone answering system such as Google Voice or similar so that the public could be better served with present technology and get calls returned or information in a more timely manner. Director Kuhlman who is a director at AT&T furthered the discussion in explanation saying that most of these types of systems are a search and find when you call a number which is basically a virtual phone box exchange. There is an auto attendant that would say welcome to the EMARCD and give the caller different options that they could select. Some of those would be the voicemail boxes of the Board members depending on their responsibilities. He also believed that you could also get texts of the messages and voice. Director Kuhlman indicated that he felt this would be good for the board and the public.

AD Feeney indicated that you can get all kinds of features but the cost goes up significantly depending on what you are wanting. Director Martin continued as follows at this point in the meeting:

**BEGIN TRANSCRIPT:**

"Danny Martin: Okay, I'd like to move to the next thing, is item D, the discussion of adoption of policy for email use. And I think that we've kind of covered a portion of that. My feeling is that I believe we all use our personal emails. And I believe that the district had a system for district business emails. So we had a record of the emails, of items that are discussed. I think that would be good, in the event that we had an issue down the road.

I think that kind of information database, if you will, even though people might consider it not private. I consider it public that anything that we do, down the road. And I think that for the district, moving forward, it would be good because this is a public district. To have this information available if anybody wanted it. You know, if anybody wanted it for any reason. So I think that's probably a good idea for the district to conduct business on a district wide email basis. So we have a record, we have a continuous record.

Because in the past, we have no record, we have no record of emails. In fact, our whole computer system was wiped out. We have nothing, there's no records, no files, no emails. Which I think, as this board came in, we would have had a really good opportunity to gather information. And that could've moved us forward a lot faster.

So anyway, on item four, all these items A, B, C and D, I would make a motion that we go along with the \$300.00 a year payment, and the \$600.00 a year for email. And have Randy set this up for us, and make a one-time payment for each. Because I think it would be in the best interests of the district and of course, the public. So do I hear a second?

Dave Kuhlman: Yeah, I'll second the motion.

Danny Martin: Okay, we have a second. All in favor?

Group: Aye.

**END TRANSCRIPT**

Motion by Director Martin to approve pre-payment for e-mails. Seconded by Director Kuhlman. No further discussion. Motion passed 3-0.

**5. DISCUSSION AND POSSIBLE APPROVAL TO PAY FOR ALL PAST AUDIO TAPES TO BE TRANSCRIBED AND PUT IN FILES FOR EASE OF PUBLIC ACCESS**

Director Martin opened the discussion and indicated it was his opinion that this was a good thing to have in the records and that if someone in the public is really interested they can request to have the transcription copied for our cost in order to obtain more accurate information. AD Neguebauer asked if the transcripts could be put online and Director Martin indicated that there might be a storage issue with putting so much information online.

However, it could easily be available if requested. Following is the transcript from this point in the meeting:

**BEGIN TRANSCRIPT:**

Danny Martin: My personal belief is that there's a storage issue with that online. I think that if somebody's really interested, they'll have the minutes there, and we certainly could notify the public online that tapes, transcripts are available. I believe that if you look at what Randy's done so far, which this district has never done; we're putting all the agendas on a continual basis, and the minutes online.

Rick Neugebauer: Just like the board of supervisors.

Danny Martin: Yeah, so any member of the public can look. And that was a big thing that Rose Corona and I wanted to do because people talk about transparency. I believe, personally, in full public access. And I believe that if the public can go online, with the beauty of the internet. If all of our agendas are there, all our minutes and eventually, all of our budgets, I believe that they can look at this. If they have an argument or a problem with what we're doing, or actually a thank you, they can find this information. But if the public is not informed of what this district is doing, then it's a blind spot.

And I think, moving forward, what we've done now, what Randy's done for us, thank you Randy Feeney. It makes it so the public can see what we're doing. And like I say, I don't like transparency because that means you can't see it. I want everybody to see everything, and have full public access to everything we do. So as far as the tapes, I don't believe that we really need to have the tapes online. If somebody reads the minutes –

Rick Neugebauer: Yeah, okay, that's –

Danny Martin: Excuse me, point of order. I believe that if they look at the minutes and they know that the actual conversation was available and they couldn't attend the meeting. It's basically providing them the same thing that happened in the meeting.

But you know what; our little district needs more people out here. I don't think we should be in the business of providing audio tapes for somebody that doesn't want to come to a meeting. We need more people. We need more volunteers. And so, I think to make them available, we certainly have to do that. But I don't want those on the website. I want people to come here. If they want to see what happened at a meeting, come on down, come on down. "

**END TRANSCRIPT AT THIS POINT IN THE MEETING**

Discussion continued and Director Brady asked if we would go out to bid and Director Martin indicated that we had already researched this information prior to agreeing to having the minutes transcribed. After a questions from AD Feeney indicating that he would like to have

all documents in a Word Document for ease of posting, Director Martin made a motion to pay for all past audio tapes to be transcribed and be put in the files for ease of public access. Seconded by Director Kuhlman. No further discussion. Call for vote. Motion passed 3-0.

**6. DISCUSSION OF POLICY FOR DEADLINES FOR AGENDA ITEM SUBMITTAL FOR BOARD MEETINGS.**

Director Martin indicated that his procedure in the past has been to send out a e-blast to directors and Associate Directors asking for submittal to anything they wished to have discussed at the meetings. Unfortunately the requests were coming closer and closer to the posting deadline and time due to last minute requests for changes or additions. Understanding that there will or may be emergencies that might arise and taking those particular instances out of the equation, it was suggested that the board move the deadline for agenda item requests to one week prior to the meeting to give the President time to put together an agenda and information for posting both online and at the location of the meeting. This would give those putting the information in the future some breathing room to make sure all had the full 72 hours to read and review information for the meeting. It was Director Martin's feeling that the Board Directors have 3 weeks in which to formulate items for the agenda and items of importance since the board only meets once a month should not be left to the last minute.

Director Martin made a motion that agenda items be submitted no later than one week prior to the regularly scheduled meetings. Seconded by Director Kuhlman. No further discussion. Call for vote. Motion passed 3-0.

**7. REMINDER THAT ALL FORM 700'S MUST BE IN TO THE CLERK OF THE BOARD AND DISCUSSION AS TO POTENTIAL POLICY OUTLINE AND PROPER PROCEDURE FOR SUBMISSION.**

Director Martin pointed out that all form 700's (conflict of Interest form) must be submitted into the clerk of the Board of the County. He indicated that they cannot be emailed, although you may do it so to let the Clerk of the Board know that the original is in the mail. All form 700's must be submitted ultimately to

Cheryl Marinos  
Filing Officer  
Riverside County Clerk of the Board  
PO Box 1147  
Riverside Ca 92502-1147

Counsel Melissa Cushman also proceeded to indicate to the members that although there appeared to be a District Policy regarding Associate Members also filling out the Form 700, she could not find anything that was signed or that it had been approved by the board. It appeared that what she had was only a draft. She was hoping to ask Director Long but she was absent from the meeting. Counsel Cushman indicated that there is a policy from 10995 regarding Associate Directors but since the area according to the laws of the state and the district policy was not entirely clear, it would be best for all directors and Associate Directors to air on the

side of caution and just fill out the information and get it in. Counsel asked to have the information sent on to Ms. Marinos at the indicated address. No action taken.

## **V. OLD BUSINESS**

### **1. DISCUSSION OF PENDING CONTRACTS WITH HOA'S FOR FUEL MAINTENANCE WORK ON THE BEAR CREEK, FAIRWAY ESTATES AND COUNTRY CLUB VILLAS PROJECTS UNDER THE EMARCD-RICK NEUGEBAUER**

Director Neugebauer proceeded to update the board on the contracts for Bear Creek. He indicated that the District was getting our insurance certificates from SAWA and those would be forwarded in the next couple of days to the various entities along with him forwarding them to District Counsel. He also indicated that the W-9 requirement would be signed that evening and also go out to the various entities. He indicated that one of the responses from one of the HOA's asked why they had to pay upfront and he indicated that our District Counsel had responded that this how the contract was written. AD Neugebauer indicated that all three contracts were signed and executed but Counsel Cushman corrected him indicating only Bear Creek and Fairway Estates had been signed and executed and the third Country Club Villas still had not responded to numerous requests for information from either her or AD Neugebauer.

Counsel Cushman indicated that her concern was that the deadline for clean-up was getting close and that we could not move forward with Country Club because it wasn't complete. AD Neugebauer said that he would follow up. He also indicated that the work was scheduled to be done between November 30 and December 8, 2015.

### **2. DISCUSSION OF TH PROPOSED BENTON CHANNEL AGREEMENT-DANNY MARTIN/RICK NEUGEBAUER**

**FOLLOWING IS THE TRANSCRIPT FROM THIS PORTION OF THE MEETING:**

Danny Martin: Okay, very good. The next item under old business is discussion of the proposed Benton Channel agreement. And this is interesting, Benton Creek also has an easement that we have, the district has, known as Adeline Farms. It's about a 4.2-acre easement. That's off of Washington, south of Shrimp Street and just north of East Benton.

I was informed of this by director Long and former district counsel Ray Johnson at a lunch meeting back in March. That this could be something coming up, it's not agendized anywhere. It came up when there was correspondence from a company called Helix. They're environmental engineers. And I was reading through it. And I was trying to put one and one together. And of course, I finally did.

What's happening is there's a developer, Mission Pacific, and they own about 95, give or take, acres up Washington Avenue. And they have a tentative map that was actually just at the board of supervisor's meeting. I think, last meeting it was finally extended for another year. This is an old map. They proposed to build 312 houses, a 312-house subdivision.

One of the requirements of their entitlement is they have to run, for flood control through Riverside County Flood, they have to run a new culvert down from this project down Washington. And what they're proposing is to dump that water into our easement. Which is a blue line, Army Corps of Engineering Blue Line. But we have the conservation easement on it.

So currently they have a 36-inch culvert, they don't, but there's a 36" culvert on that property. They're proposing to put in a 60" culvert. And if you do the math from high school days, and you remember pi, it could equate to about a 275 percent increase in water flow on that property.

This is a condition of their entitlement. And the developer had sent correspondence to us, basically requesting that we agree to let them dump water on this conservation easement, which is corridor and habitat, you know, habitat corridor, that kind of thing. And just dump water on it, and they proposed to give us a five-year contract. And pay us for reports and mitigation to the tune of roughly \$3,500.00 a month for five years.

Rick Neugebauer: \$3,500.00 a month for a year.

Danny Martin: No, \$3,500.00, yeah, per year for five years, okay. Well, me being the real estate appraiser that I am, I looked at it. And I said, well, if you're gonna put potentially 275 percent more water on the property, in rainy years, this could be devastating to the flora and the fauna that lives there because this is a wildlife corridor.

That's one of the issues that we do want it, reading the conservation easement. And I'm pretty pro-development, but I found it, as a professional, to be insulting that this was trying to be pushed through on us for five years only because this is going to go into perpetuity.

In a big year, if you have 275 times the capacity going in here, we could have a real big problem. Because if we're on the hook to maintain this easement, and we have this much water going on it, they're offering to pay us \$3,500.00, which is inadequate compared to our other easement issues that we have out there.

You know, what we get to do that, and the costs. I mean, we're not in the business of making profit. We're in the business of providing service for a reasonable fee. The other issue on this, though, is they need this, as an entitlement or it will stay at farmland. And so there has to be a balance here, you know, is this - No. 1, can it legally and physically be done, to dump the water on this property, okay? That's the first consideration.

Rick Neugebauer: Without mitigating it.

Danny Martin: And the second issue is, if they do, what are gonna be the costs of mitigation for the district into perpetuity? And then the No. 3 issue is, I believe, is the right for the developer to do this? And the value of that to our district, okay? So of No. 1, we can get through the



legality, can they do it? No. 2 is what's the potential costs over time to mitigate any floods in this area? And then, No. 3 is the value of that right.

So my recommendation to the board, and I wish everybody was here. My recommendation is that I think that we need to call for a meeting with Riverside County Flood. Get all the engineering documents that they're proposing, if they're available. I believe that we need to have a meeting with the Army Corps of Engineers to determine if it's even possible for them to increase flow in Blue Line, I don't know.

And then No. 3, I think that if those two things are okay. I think it would behoove the board to hire an expert appraiser, not me, to determine the value that's added to this project, this 312-unit project, if there is any. And I would suggest that if we get to that point that the board considers having the developer pay for reasonable attorney fees to investigate this. And hire an evaluation expert that not only appraises conservation easements, but understands residential subdivision development or value

Rick Neugebauer: So, Danny and I have had a little discussion on this, and so I think the biggest thing is the increased velocity. We're taking a 36 to 60. So we're still gonna get the same amount of water, but it's the amount of velocity that will cause the damage in the future. And so I think that wants to be probably one of the key issues that we look at.

You know, 36 to a 60, it's the same amount of area. It's still the same amount upstream. But so it rains, now we've got streets and we've got catch basins that are now pushing it out in a hurry and not taming that. So again, looking at what they've designed from water quality management plan and maybe it's creating some basins within that that could slow down the water. I mean, I think there's a way to get there. But it's not gonna come at the same price as they've offered.

Danny Martin: Well, the other issue is they're gonna potentially increase the water flow 275 times; yes the velocity would be greater. The other issue is this is flood control drainage coming out of housing track, the potential for invasives getting in there is gonna be much greater. And it will, it will happen. So I think, my recommendation to the board, the future board, would be talk to Riverside County Flood. Talk to Army Corps of Engineers, and –

Rick Neugebauer: And the developer, too, to get –

Danny Martin: Yeah, the developer, and then you're gonna need to – if you get through the first two things, the third thing is you're gonna have to determine the value of the right. And I'm not saying we have the right to even give this away. But if we do, this board is entitled, I believe, to compensation for that right to do that.

And I just want you all to think about that. It's very important. They have a one-year extension that was passed at the last BOS meeting. And they're on me, calling me like crazy.

And I said, I have a board meeting, and I gotta talk of this with everybody. So it's gonna be a process. Just sit back and enjoy the ride.

Carol Lee Brady: Was there a proposed timeline for this?

Danny Martin: They just had their tentative map approved, extended for another year.

Rick Neugebauer: It's probably been approved for five years.

Danny Martin: No, it's been approved for ten. Under state law, you can –

Rick Neugebauer: 2005.

Danny Martin: Get, like, a one-year extension just for asking, but this is their last one. And these guys, they're land developers. They have another project, I believe, up in French Valley somewhere, as well. That was on the calendar, I didn't pay attention to it. But I just wanted to give you all the heads up on this. This is something, and you know, this is gonna be my last meeting, okay? But I will be available, as a volunteer consultant because I do have a level of expertise in this area.

Rick Neugebauer: Do you want to give me their contact information?

Danny Martin: I will, after the meeting.

Rick Neugebauer: Then I can pursue that with them, too.

Danny Martin: Does anybody have any other questions. That's about as much information as I have.

Dave Kuhlman: Seems like they're [inaudible] according to whatever modifications are gonna need to be made. But rip wrap, or the catch basin is gonna change the nature of the easement or take it out of how it's currently designated. Which means we'd have to mitigate it, and it sounds pretty –

Danny Martin: Oh, would that much – would the increased flow, as Rick pointed out, the increased potential velocity could be huge. I mean, this is several; it's over 1,000 feet long. It's 4.2 acres and it's only 40 feet wide. I can do the math if I had my phone. This is huge; this is probably about a half mile long, a mile long.

Dave Kuhlman: So we need to get some opinion on whether it can still function as a corridor, right?

Rick Neugebauer: Well, yeah, and I think some of that information is gonna come out of their own hydrology reports. What's the [inaudible] fastest that are coming right now, as it exists? And what is going to be the future, coming off of that property?

[Crosstalk]

Danny Martin: Dave, the other issue, this has all been planted. This is a condition of the easement. And we maintain that, and watch that, make reports. So if you're gonna have potentially 275 times more water flowing through this thing, it could – and we have the creek bed.

And it's all planted. There's bunnies, there's squirrels out there. There's everything. And it's meant to be a wildlife corridor and a flora corridor. So if you have a flood, you know, that whole bottom's gonna sweep out. I just want to make sure that the district is not liable to replant it and maintain it.

[Crosstalk]

Rick Neugebauer: Because it's really about the 100 year flood-

Danny Martin: So there's other issues. Does there have to be another endowment for it? Does there have to be payment for the right to do that? I believe those are all issues that the board should look at in the future...."

**END TRANSCRIPT AT THIS PORTION OF THE MEETING.**

Discussion on this issue concludes-no action taken.

### **3. DISCUSSION OF MOU WITH THE CITY OF MURRIETA MITIGATION-RICK NEUGEBAUER**

Associate Director Neugebauer updated the board on the MOU with City of Murrieta saying that he spoke with Bob Moehling, the city engineer with City of Murrieta. Mr. Moehling had made contact with the San Diego Regional Quality Management Board and they're in contact and that is all that has happened. AD Neugebauer said that he indicated that when they have a meeting that he will make himself available to attend in order that all of the concerned parties are on the same page. He continued to say that this issue for the City of Murrieta goes back to 2010 and no one did anything with it. AD Neugebauer indicated that he did not know the value of it at this point in time but fair market value would make sense. Director Martin asked if the land being considered for this issue was the Clinton Keith Property owned by the EMARCD. AD Neugebauer indicated yes and that he is just waiting for the meeting to be arranged.

### **4. EMARCD WEBSITE STATUS-Already discussed earlier**

### **5. CALIFORNIA FISH AND WILDLIFE DUE DILIGENCE REQUIREMENTS FOR MITIGATION-MELISSA CUSHMAN-**

Counsel Cushman indicated that she went through it the last meeting and since Fish and Wildlife cancelled their attendance to the December 10<sup>th</sup> meeting, Director Martin suggested that this item be postponed. Counsel Cushman saw no reason to go through it again at this time.

**6. DISCUSSION OF CLOUD ACCOUNTING USING QUICKBOOKS-CAROL BRADY**

Director Brady asked the item be tables since she felt that more information was needed in order to properly inform the board as to its functions. Item tabled.

**NEW BUSINESS-NO NEW BUSINESS**

**DISTRICT ORAL AND WRITTEN REPORTS-**

District Counsel- none

Director Reports-none

Associate Director Reports – none


SAWA Safe Fire Reports-None except AD Neugebauer brought the monthly stipend check to give to the board.

**FUTURE AGENDA ITEMS**

1. Presentation on December 10 by US Army Corp of Engineers and Fish and Wildlife has cancelled their presentation
2. Kerwin Russell-Presentation RCRC
3. Discussion and update and possible approval, adding Tamarisk Removal to Annual Plan – 2015-2016

Director Martin ended the meeting by indicating that he would be submitting his resignation to the Board of Supervisors in the next week. He summarized his tenure on the EMARCD and encouraged each person to bring in more volunteers for the District. He thanked in particular Counsels Priamos and Cushman for their assistance and thanked the board for the opportunity to serve.

**MOTION TO ADJOURN-** Motion made by Director Martin to adjourn, seconded by Director Kuhlman. Meeting adjourned 5:09 pm.

  
Dave Kuhlman-Secretary-Treasurer

12/10/2015  
Date