

# Elsinore-Murrieta-Anza Resource Conservation District

## MINUTES OF POSTPONED REGULAR MEETING

Thursday, October 24, 2006 - 4:00pm

Fire Station #84, 30650 Pauba Road, Temecula, CA 92592

### Members Present:

Pamela Nelson, President  
Gary Watts, Vice President  
Bob Wheeler, Treasurer  
Charolette Fox, Secretary  
Terry Whittington, Director  
Dan Matrisciano, Associate Director  
Del Ross, Associate Director  
Edward Stanton, Associate Director  
Vicki Long, Associate Director  
Bob Hewitt, NRCS

### Members Absent:

### Staff or Guests Present:

Dr. Rick Hopkins, Live Oak Associates  
Dr. Stephen Neudecker, HELIX Environmental  
Carl Love, Reporter, Press Enterprise

### Additions to the Agenda:

Action Item 6.5, Request by Dr. Stephen Neudecker for signing of a Quit Claim Deed on an 8.49 acre parcel conservation easement within the Santa Margarita Watershed, was placed on the Agenda by President Nelson.

### 1.0 Call to Order and Introductions

President Pamela Nelson called the meeting to order at 4:05pm.

### 2.0 Approval of Minutes

Minutes of September 16, 2006 were approved as presented.

### 3.0 Treasurer's Report

Bob Wheeler reported balances on hand as of 10-26-06: Restricted Funds \$11.59, Unrestricted Funds \$2,420.01, Special Fund \$30,000.

### 4.0 Public Comments

None

### 5.0 Presentations

See Item 6.1 for presentation by Dr. Rick Hopkins

See Item 6.5 for presentation by Dr. Steven Neudecker

### 6.0 Action Items - Approval requires a majority vote of directors.

6.1 Dr. Rick Hopkins made an informal presentation speaking of his credentials, as well as the services he provides as a consultant and principal of Live Oak Associates, Inc. The corporate Statement of Qualifications for 2006 was distributed for review at the board meeting of September 16. His work is well-known to Associate Director Vicki Long through their mutual efforts to protect mountain lions. To establish rapport with the Board, Dr. Hopkins offered his observations about the preceding presentation by Dr. Neudecker and the Board's response. As an assessment of risk is vital for every easement, he suggested that EMARCD needs to find its level of comfort in this regard.

Discussion on whether to engage the services of Dr. Hopkins and how to do so raised the question of financial and contractual arrangements. Rick responded that he is "open" to the method of remuneration, that sometimes it's a retainer agreement while at other times it's a checklist of specific items with a dollar per hour cost. Live Oak Associates bills Dr. Hopkins time at \$150/hr. Staff time is billed at varying rates, and whenever staff can perform the necessary functions, time is billed at the lower rate(s). Examples were given to demonstrate flexibility in client services and client payment structures. Rick recommended that EMARCD approve him as a contractor/consultant, and then as tasks come up, EMARCD submit a request for service. He would write a proposal and bill for his service(s). The board would then approve the proposal and billing statement. [This process ensures the Board's "due diligence" requirements and complies with AB 1234.]

The chain of command discussed was that Rick would interact first with the Mitigation Committee on mitigation issues. The Mitigation Committee would provide the full board with material for consideration and a recommendation for possible approval at a duly noticed board meeting. Authority for approval or non-approval would remain with the full board.

In "thinking out loud", the board discussed a phased approach for retaining Dr. Hopkins as an independent contractor for EMARCD, and considered the idea of an up-front retainer of \$5,000 to begin Phase 1. The services to be performed for Phase 1 were not specified.

Quinto do Lago, an easement brought to the attention of the Mitigation Committee, was one possible source of the income needed to make this payment. No committee recommendation on Quinto do Lago has been brought to the Board for a vote. Also, no contract has been prepared for presentation to Quinto do Lago. Edward Stanton and the Mitigation Committee will meet to draw up the necessary contract and email material to directors and associates for review. Consideration to accept this easement and execute the contract is expected on November 9.

Also, a formal letter of engagement or MOU is necessary to outline the consulting arrangements between Dr. Hopkins (Live Oak Associates) and EMARCD. Sample MOU's of previous or existing service agreements were provided by Bob Wheeler and are made a part of the record.

**Terry Whittington moved and Gary Watts seconded that we accept Dr. Hopkins as consultant to EMARCD. Motion carried 5-0.**

- 6.2 A sign-on "Letter of Support" for northern watershed boundary changes to be presented to LAFCO is continued until November 9. The LAFCO hearing is continued to mid December.
- 6.3 A letter requesting greater participation in the Water Plan of the San Diego Water Authority is continued until November 9. Del Ross explained he received a staff answer from SDWA that EMARCD may be "out" as a stakeholder; however, he plans to approach the Cities of Temecula and Murrieta, and the Bureau of Reclamation to get a letter of support to present to Maureen Stapleton, Chair of SDWA.
- 6.4 The terms of office and process for appointment/reappointment of Board Directors was discussed. Terms for Directors Wheeler and Whittington expire 11/22/06. Applications were distributed. The application period is November 13 to December 1. On December 11, a qualified list of applicants if forwarded from the Registrar of Voters to the Clerk of the Board of Supervisors. Between December 18 and January 12, Supervisors conduct interviews with the applicants if they so desire. On January 16, the item is placed on the Agenda for the Board of Supervisors. The Supervisors make a decision by January 23; if they fail to do so, the RCD may legally make the appointment(s). Applicants must be a registered voter in the state, a resident and landowner within the district, or been an Associate Director for two years or more. Additional information is contained in code.
- 6.5 Representing Richmond American Homes, Dr. Stephen Neudecker, spoke about The Environmental Trust (TET), a conservation trust which failed. Fish & Game and the Bankruptcy Court must decide what to do with the residual properties which were held by that trust. The property that

is presented for consideration is at the corner of Leon Road and Hwy 79, 8.49 acres of dedicated open space, in the Critical Constrained Linkage #18 of the French Valley Creek of the MSHCP - a riparian corridor linkage.

Dr. Neudecker explained the roles of the Grantee and the In-Fee Owner. The Grantee position is that of a "legal straw man" to stop any further development of the property protecting the easement in perpetuity, with no management or liability responsibility. The Grantee makes sure the property is held for conservation purposes only. The In-Fee owner of property is responsible for the perpetual maintenance and management of the property. Riverside County will be the owner of the property and assume liability arising from any legal actions.

Dr. Neudecker indicated Richmond American Homes, the previous underlying owner and permittee, could quit claim their interest in this easement to Elsinore-Murrieta-Anza RCD, and provide payment of \$5,000. It was explained that the fee-owner of a property cannot also be the beneficiary of a conservation easement. He stated that the Grantee position is the best possible position for EMARCD to be in as an agency just beginning to work with conservation easements. Pursuant to the present permits, there was a 404 Permit, a 401 Permit, and a 1603 (now 1602) Operations Agreement, which specified certain enhancements were to be made of the creek area. A subsidiary company of Richmond American Homes is currently doing the restoration enhancement and has a mitigation plan with success criteria. The project is in its third year and is meeting its success criteria.

The area now supports a variety of wildlife and the area is doing well, but Richmond is not free of the permits until the end of the 5-year period. Further restoration costs will be about \$20,000 for each of the two remaining years. Richmond is not released from the permits until the Army Corp of Engineers inspects the project and issues its release. The County of Riverside is then responsible for the maintenance forever, and EMARCD would be the Grantee. **Time is of the essence as the Quit Claim Deed needs to be signed and recorded by October 27 [next day], or the project "waterfalls" to the County.**

A lengthy question and answer period ensued during which Richmond's responsibility under the bankruptcy court was explained and questions regarding EMARCD's legal, financial and stewardship responsibilities were raised. After this further discussion, **Terry Whittington moved that EMARCD sign the Quit Claim Deed and become the Grantee of the subject property. Motion died for lack of a second.**

## **7.0 Committee Reports**

- 7.1 Mitigation Committee** - Discussions are covered under Items 6.1 and 6.5 of these minutes. Del Ross asked that when hydrology or water quality issues are involved, the Committee please contact him so he can do a review.
- 7.2 Watershed Committee** - Del has been active and EMARCD has been well represented at meetings about the watershed. He feels this has "pay off" value. He continues to seek grant funds from several sources.
- 7.3 Schoolhouse/Office at Alamos** - MWD is going forward with their educational partnership to keep an interpretive program going and EMARCD continues to be involved.

## **8.0 Other Reports**

### **8.1 Agency Reports**

**Bob Hewitt** reported that he had four ag grading permits. Each of these permits requires a conservation plan developed by the NRCS. Three properties in the area were planting vineyards and one is a nursery. There is one contract for some erosion control and drainage problems for one avocado grove (on the west side). EWP work and tree removal program continues with 21 federal contracts completed and 12 more are underway now. About 55,000 trees have been removed so far and one highway evacuation route [cleared]. During discussion, Bob explained the items that are

required to be included in a conservation plan, and gave an overview of the \$20 million dollars that NRCS has dispersed. He responded to questions and comments from guests and members.

## 8.2 Director's Reports

8.2.1 Pam Nelson reviewed her written report.

8.2.2 Charolette Fox sent a written report via email.

8.2.3 Bob Wheeler - A project on Murrieta Creek on south Clinton Keith Road called Hoover Ranch that seeks to build houses in the floodplain. Another project by the same representative is planned across the creek. There are issues with traffic, but in particular there are issues with flood flows and the need to provide a "safety valve" for diversion of flood waters. Murrieta has not planned well for the hydrology and hydraulics of the stream south of the high school, so the backflow go into Wildomar. Nancy Backstrand and other residents have held meetings. Concern over recharge was raised. Western Municipal Water District has assumed control of the Murrieta Water District and will have to address the several issues of recharge, flood control, and fluid runoff into the creek. Bob suggested that EMARCD, WMWD, and the Bureau of Reclamation may be able to jointly develop a project. Developers may cooperate with these efforts as an alternative to fighting with the Planning Commission.

## 8.3 Associate Director's Reports

8.3.1 Ed Stanton referred to Dr. Neudecker's presentation and wanted the Board to be aware that the U.S. Fish & Game has been made aware that the County MSHCP is trying to claim pre-existing mitigation on this project. Dr. Hopkins asked, given the recent [suit brought by the Center for Biological Diversity and the ruling by the district courts on the San Diego County HCP], what effect will there be on the MSHCP? Could the MSHCP be at risk? Ed responded with a cautionary that the situation is slightly different, but there is risk.

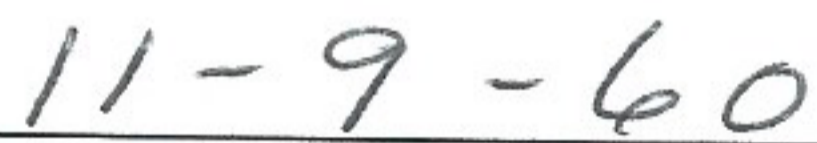
## 9.0 Other Business

There was no other business to come before the board.

## 10.0 Adjournment

The meeting was adjourned by President Nelson at 6:40pm

  
Charolette Fox, Secretary

  
Date Approved