

MARIN EMERGENCY RADIO AUTHORITY

c/o Novato Fire Protection District
95 Rowland Way, Novato, CA 94945
PHONE: (415) 878-2690 FAX: (415) 878-2660

BOARD OF DIRECTORS

Minutes of May 19, 2010, Special Meeting

The meeting was called to order at 3:37 p.m. by President Kinsey at the Novato Fire Protection District, Heritage Conference Room, 95 Rowland Way, Novato, CA 94945.

Board Members Present:

Town of Corte Madera	Roger Sprehn (Alternate)
City of Novato	Jim Berg (Alternate)
Town of Ross	Tom Gaffney
Town of San Anselmo	Charles Maynard
City of San Rafael	Ken Nordhoff
County of Marin	Steve Kinsey
City of Sausalito	John Rohrbacher (Alternate)
Bolinas Fire Protection District	Anita Tyrrell-Brown
Inverness Public Utility District	Jim Fox
Kentfield Fire Protection District	Paul Smith
Marin County Transit District	David Rzepinski
Marin Municipal Water District	Bill Hogan (Alternate)
Southern Marin Fire Protection District	Jim Irving (Alternate)
Stinson Beach Fire District	Kenny Stevens (Alternate)
Twin Cities Police Authority	Todd Cusimano (Alternate)

Board Members Absent:

City of Belvedere	Marinwood Community Services District
Town of Fairfax	Novato Fire Protection District
City of Larkspur	Ross Valley Fire Service
City of Mill Valley	Tiburon Fire Protection District
Marin Community College District	Town of Tiburon

Staff Present:

Maureen Cassingham	Executive Officer
Jim Karpiak	General Counsel
Jeff Stava	Bond Counsel (arrived 4:44 p.m.)
Farhad Mansourian	Operations Officer
Richard Chuck	Communications Engineer
Denise Wade	Recording Secretary

<u>Guest:</u> Amy Van Doren	Marin County Transit District
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President Kinsey asked for introductions given the new members present.

ELECTION OF OFFICERS FOR MERA BOARD (PRESIDENT AND VICE PRESIDENT)

The President asked for other nominations in addition to those submitted by the Executive Committee. There were no other nominations.

M/S/P Fox/Maynard to elect Steve Kinsey as President of the MERA Board.

AYES: ALL
NAYS: NONE
Motion carried.

M/S/P Fox/Maynard to elect Ken Nordhoff as Vice President of the MERA Board.

AYES: ALL
NAYS: NONE
Motion carried.

A. Consent Calendar

All matters on the Consent Calendar are to be approved with one motion unless a member of the Board or the public requests that separate action be taken on a specific item.

- 1) Minutes from December 9, 2009, Special Meeting
- 2) Minutes from January 14, 2010, Regular Meeting
- 3) Proposal for FY 09-10 Audit Services – Maher Accountancy
- 4) First Amendment to Office and Staff Services Agreement between MERA and Novato Fire Protection District
- 5) Proposed Amendment No. 4 to Agreement for Professional Services between MERA and Regional Government Services
- 6) Proposed Amendment to Agreement for Strategic Planning Facilitation Services between MERA and CBG Communications, Inc.
- 7) Proposal for Additional Records Management Implementation from Gladwell Governmental Services, Inc.
- 8) Proposed MERA Cash Flow Management Policy and Procedures
- 9) Proposed MERA Investment Policy and Procedures

- 10) Proposed Revised NERA Public Records Policy and Procedures
- 11) Proposed NERA Operating Budget Policy and Procedures
- 12) Proposed Resolution Terminating 1999 Revenue Bond Fund and Creating 2010 Refunding Revenue Bond Fund
- 13) Proposed Change of Regular Board Meeting Day/Time

M/S/P Nordhoff/Gaffney to approve Consent Calendar Items 1-13 as presented.

AYES: ALL
NAYS: NONE
Motion carried.

B. Executive Officer's Report (Cassingham)

- 1) Final Report on Refunding NERA's 1999 Revenue Bonds (Executive Officer and Bond Counsel)

Cassingham, in the absence of Bond Counsel, said the Executive Committee is recommending that the Board receive and file the Final Report on Refunding NERA's 1999 Revenue Bonds. She distributed copies of the Official Statement for the 2010 Refunding Bonds and CDs of the refunding transcripts for Member Agency files. She described the refunding as a success which resulted in \$1.6M net present value interest savings versus the anticipated \$1.3M savings.

During closing due diligence, the Finance team set about confirming the amounts on deposit with the County and Trustee to finalize the sizing of the bonds. The team determined that the first prepaid debt service had not been utilized by the Authority according to the bond documents. That prepayment was intended to be the source of the upfront funds for capital projects when the Board approved all the bond documents on January 14. The Board also determined to maintain the same level of member debt service through the term of the bonds.

The team's discovery resulted in additional reviews by NERA's auditor, Trustee Bank of New York and Bond Counsel to confirm this result. Several factors contributed to the need to use refunding savings to address the prepayment requirement. The Trustee should have collected member debt service, not the Authority. The Authority was collecting debt service since 2002 every July 1 for principal and interest due August 15 and interest due February 15. Debt service should have been collected July 1 for the following February 15 interest payment and August 15 principal and interest in the next fiscal year. She said NERA did not collect in the way to capture the property tax intercept requirement of the Project Operating Agreement which is the underlying security for the bonds. She said the language in the Operating Agreement is less than clear about this requirement; however, the debt service schedule was clear.

Initially, Members were not assessed any debt service because capitalized interest was used to make payments through mid FY 02-03 which may have been a contributing factor to getting NERA off schedule with the debt service prepayment. Since 2002-03, Members have been paying

annual debt service on a fiscal-year basis which continued keeping MERA out-of-synch with the payment schedule.

Cassingham reported on a number of administrative changes that could also have been contributing factors. She noted the change in Trustee early on, MERA staffing changes, the challenge of overseeing the operations of three JPAs and the complexity of this indenture. The outcome is that most of the interest savings from the refunding have had to be used to put MERA back in-synch with the debt-service schedule, leaving some savings for capital projects. The Trustee advised MERA's Bond Counsel yesterday that the remaining interest savings must be passed on to the member agencies in a one-time debt-service reduction resulting in about a 13% savings. If MERA collected the level debt service, one-time savings could be used for capital projects. However, MERA's re-assumption of the Trustee's duties would put us in default of the Project Operating Agreement and Indenture. This latest finding affects Agenda Item C-2 and a revised staff report will be distributed for that item, which changes the proposed FY10-11 2010 Bonds Budget, reducing it by \$278,000.

She said getting off on the wrong foot at the beginning with debt service collection has had an unanticipated ripple effect. Once it was determined that \$1.6M in interest savings would not be available for MERA's projects, Cassingham consulted with Kinsey, Nordhoff and the Executive Committee about how to best communicate this disappointing outcome but still a positive action for the Authority overall. It was agreed that the Executive Officer would provide interested and/or affected agencies in Marin with an update on MERA, including our strategic planning effort, commitment to building reserves that stave off member assessments for new or unplanned replacement or maintenance needs, improved communications with the soon-to-be-launched enhanced website, improved staff reports, more explanatory meeting minutes distributed on a more timely basis and the refunding outcome. The first group receiving this update was the Marin Managers Association followed by MCCMC at the end of April where Mansourian joined her to provide an operations update. She will continue with updates to other organizations.

Cassingham summarized by saying she was disappointed in not achieving interest savings for projects but pleased to remedy the debt-service issue without going back to the member agencies to make up the difference and cure the areas of default with the Indenture and Operating Agreement. Members will enjoy some savings in the next fiscal year and MERA will be back on track with debt-service payments going forward. Bond payments and the Project Note will be extinguished in FY20-21.

M/S/P Cusimano/Irving to accept the final report on the refunding of MERA's 1999 revenue bonds.

AYES: ALL
NAYS: NONE
Motion carried.

2) Final Report on Investment of 2010 Refunding Bonds Reserve

Cassingham reported that the Board was advised on January 14 that the refunding was triggering Rabobank's termination of MERA's 1999 bond reserve investment agreement. MERA has worked with PK Securities and the investment arm of Trustee Bank of New York to identify acceptable investments for the 2010 Bonds reserve. BNY identified a permitted investment with the Federal National Mortgage Association at a 2% yield maturing December 31, 2013. This short-term investment, which is in accordance with the MERA Investment Policy approved earlier in this meeting, will permit re-investment later on when interest rates are hopefully higher.

M/S/P Nordhoff/Rzepinski to accept to receive and file the Final Report on Investment of 2010 Refunding Bonds Reserves.

AYES: ALL
NAYS: NONE
Motion carried.

3) Proposed Emergency Communications System Maintenance Agreement between MERA and County of Marin

Cassingham reported that the current System Maintenance Agreement with the County terminates on June 30, 2010. The new five-year agreement recommended by the Executive Committee would commence July 1, 2010, at an annual cost of \$407,430 which is \$28,195 less than the current annual fixed fee. DPW has provided a summary of the differences between the two agreements. One-time programming costs converting existing and new system equipment have been deleted from the new agreement which now only includes preventive and corrective maintenance. She thanked Chief Gray, City of San Rafael, and Lt. Jeffries, City of Novato, for their help in reviewing both agreements due to their technical nature and substantial costs to the Authority.

The fee to MERA is an annual fixed fee against which preventive and corrective maintenance costs are billed. Kinsey confirmed that the fixed-fee arrangement does provide for any increased costs to the County over the term of the agreement. Cassingham responded that DPW costs relative to relocation of the MERA prime site would be covered by the agreement as Extra Work.

Karpiak stated that the reference to credits in Section 10C and Exhibits A and B of the agreement was inconsistent with the fixed fee. Mansourian said when the original agreement was developed, there were a number of optional programs related to credits which we no longer have. What is proposed here is a fixed-fee contract for all services proposed. If costs exceed the fee or are less than the fee, the costs remain the same. Karpiak stated that if this is the intent, the language related to credits should be deleted.

Mansourian confirmed for Kinsey that the fee is not a maximum but a fixed amount for the services proposed. Mansourian said DPW keeps track of the services hours for their purposes which allowed for the proposed fee reduction. Hourly fees for services rendered would become an accounting and budgeting nightmare, plus it is cheaper for MERA. Kinsey said the proposed agreement establishes what the basis for credits would be. Gaffney inquired about the language "if none done," do we get a credit? Nordhoff said MERA would get a credit against the upfront fixed

fee. Mansourian clarified that this is a five-year fixed contract like the last one where services are provided in return for the fee.

Mansourian said the reference to credits in the new agreement was a holdover from the first uncertain year of the initial agreement. Nordhoff and Mansourian discussed deletion of Section 10C to clarify this issue. Kinsey confirmed with Karpiak that this deletion and revision of the Exhibits A and B would address the intent. Irving asked if Counsel had addressed this prior to today. Karpiak talked with staff about resolving this confusion. Gaffney inquired about the hours noted on Exhibit A multiplied by the hourly rate equaling the fixed fee. Mansourian said yes. Gaffney suggested leaving the number of hours in the Exhibits times the hourly rate as the basis for the fixed fee. Kinsey said in the modification of the earlier agreement, some language got carried forward. Mansourian said the intent is to provide an estimated fixed fee. If underestimated, DPW absorbs the cost. If overestimated, future contract costs are reduced on that basis.

In response to Kinsey, Karpiak clarified that he had reviewed the contract several weeks ago. He had not been involved in the negotiations. Since then, a question had been raised from the Executive Committee about credits which Cassingham had shared with him. Cassingham and Mansourian had not had a chance to discuss the credits issue before this meeting. He felt this should be resolved today. Maynard noted that using total-cost-per-service item in the future should resolve versus using number of hours times hourly rate. Gaffney supports using the number of hours times the hourly rate.

M/S/P Gaffney/Smith to approve the proposed Emergency Communications System Maintenance Agreement between MERA and County of Marin, subject to final review by General Counsel to remove any reference to credits in the agreement and exhibits.

AYES: ALL
NAYS: NONE
Motion carried.

4) Proposed Agreement between MERA and County of Marin to Provide Funding for Communications Engineering Services

Cassingham said the current agreement for communications engineering services expires June 30, 2010. The proposed agreement is for another three years with the same scope of services and cost of \$500,000 as the previous contract. Cost includes Chuck's salary and direct non-salary expenses.

M/S/P Nordhoff/Irving to approve the proposed Agreement between MERA and County of Marin to provide funding for Communication Engineering Services.

AYES: ALL
NAYS: NONE
Motion carried.

5) Other Information Items

Cassingham reported that she was invited to an MMWD Committee meeting on March 30 as they were considering a recommendation to charge MERA market rent for the Forbes Reservoir site effective March 12, 2012. The current lease is twenty years with the first five years rent free. After the fifth year, MERA must make annual requests to waive rent. The lease contemplates a market rent of \$36,000 per year plus CPI. She has requested a "public" market rent between zero and \$8,500 per year with Sonoma County, which is consistent with the current rents charged to MERA by the public agency owners of its sites. Kinsey asked if there was a definition of a "public" market rate. Cassingham said she was basing a public rate on what MERA is presently paying to public agencies for its tower sites. She also reported to the District Committee that the site is mutually beneficial to all the MERA members including MMWD and that MERA had satisfactorily completed the demolition project at Forbes ahead of schedule and with sensitivity to the surrounding neighbors. Kinsey asked Cassingham to convey our concern about the increase and asked to be advised when the MMWD Board plans to act. Maynard inquired about why this change of direction from MMWD. Cassingham said she assumed this was due to fiscal reasons. He inquired about how the \$36,000 rent was determined. Cassingham said this amount was in the original lease which predated her and she had no background on its development. Kinsey said when the County relinquished its Mt. Barnabe site with AT&T, the rent was about \$3,000 per month which may be the basis for the \$36,000. Kinsey said we are all in this shared system of mutual response. Gaffney said if all public agencies increased site rentals, where would the savings be? Kinsey asked Cassingham to monitor this matter.

Cassingham distributed the latest Board list dated May 10, 2010. She asked for any revisions. Agencies not having appointed a second alternate may use the standard resolution she can provide for their governing board's action.

C. Public Hearing: Adoption of FY10-11 Budgets

1) Proposed FY10-11 MERA Operating Budget

Cassingham summarized the proposed FY 10-11 Operating Budget which was reviewed by the Executive Committee on May 12, 2010, and recommended Board approval as presented. The proposed total is \$1,496,105 which is \$145,895 less than last year's budget. This is an almost 9% decrease in member agency contributions if approved as presented. Nordhoff confirmed that this budget includes the contracts approved earlier in the meeting.

There being no questions, Kinsey opened the public hearing. Receiving no public comment, he closed the public hearing.

M/S/P Irving/Maynard to approve the proposed FY10-11 MERA Operating Budget.

AYES: ALL
NAYS: NONE
Motion carried.

2) Proposed FY10-11 MERA Other Budgets and Reserves

Cassingham distributed the revised report on this item which reflects the reduction in the annual debt service budget for the 2010 Refinancing Revenue Bonds. The Executive Committee, on May 12, reviewed the originally proposed budgets for the 2010 Bonds Debt Service, New Project Financing – 2007 Bank Note, use of reserves and the proposed resolution to adopt these budgets and reserves.

Since the Committee's review, the Trustee has indicated it must use the remaining refunding interest savings for a one-time reduction in debt service for this fiscal year. The new budget is \$1,848,750 which is a 13% decrease in member debt service from the originally proposed budget.

The Committee also recommended keeping the Project Note annual budget at \$225,000 versus reducing it to the actual \$208,499 amount of the Note. The difference of \$16,501 will continue to be allocated to capital projects.

Cassingham reviewed the Reserves Chart which includes Board-approved expenses for the Forbes Demolition, Strategic Planning and Bodega Road Projects from the Replacement Fund. She administratively approved expenses against this Fund for the prime site AC compressor at \$3,502, DPW cost estimate report for prime site relocation at \$8,640 and catalytic converters for the Tiburon, Dollar Hill, Pt. Reyes, and Forbes Sites for a combined \$21,000. She noted the member agency payment schedules for the debt service and project note were attached to the revised report. The Trustee will provide members with a debt service schedule through the term of the bonds.

Gaffney confirmed that the Trustee would perform the member billing for debt service per the Project Operating Agreement. Cassingham said if the Authority billed the members for the upcoming year to capture some interest savings for projects, this would put the Authority in default. Members will nonetheless achieve those savings in the form of reduced debt service for one year.

Kinsey opened the public hearing. There being no public comment, Kinsey asked the Board for action on these matters.

M/S/P Maynard/Cusimano to approve the proposed FY10-11 MERA Other Budgets and Reserve and Resolution adopting same.

AYES: ALL
NAYS: NONE
Motion carried.

D. Operations Reports

1) Report on Capacity Improvement Project – MERA System Upgrade Information

Mansourian presented a report on 700 MHz interoperability. No action is required at this time.

UASI funded an interoperability study for Marin County. This is one of the issues being addressed in the strategic planning process. The MERA system is an excellent one but it does nothing for our interoperability in the region. The Federal Government is moving towards a 700 MHz system to enable all public safety agencies to talk with each other.

The study performed by the County's consultant was presented to the Operations Committee along with four options. Those options include adding some 700 MHz components to the MERA System to facilitate interoperability when out-of-area users come to Marin. This does not enhance MERA's capacity or coverage. A second option upgrades MERA to address capacity issues and adds 700 MHz for interoperability. This required more sites. A third option upgrades MERA capacity, adds sites to address coverage, and adds 700 MHz for interoperability; and the fourth option would replace the MERA System with a new 700 MHz system.

Mansourian said that this is to let the Board know what is on the horizon. The options vary in expense. Chuck and Nelson are very involved regionally. Tyrell-Brown asked about the timing of 700 MHz. Chuck said five years if this idea becomes reality. Sites and money are big issues. Gaffney confirmed MERA is 480 MHz and asked what is involved to get to 700 MHz. Mansourian said more towers would be needed; however, the options allow MERA to add to what it has. Fox said the consultant had estimated the costs of options that rated the highest but no pricing was provided on the first two. Mansourian said that information would be provided later on if we get to that point. He noted the number of channels UASI is proposing for us is less than we have now. It is important for Marin to be involved early on to assure our needs are addressed. Chuck noted Option 1 is funded by UASI but does not add capacity or coverage and only helps users coming into Marin.

Kinsey confirmed that there will be opportunities in the future to act on these options and that these matters will synchronize with MERA's strategic plan. Mansourian said it is important to start thinking about future system needs now and find funding for them. He said we need to decide whether we should replace what we have if 700 MHz is coming. Kinsey asked if the strategic planning process is premature given the information from UASI may take several years. Mansourian said the strategic plan is evaluating everything from MERA governance to operations. However, outside forces may prevent giving the Board exactly what it needs to make technical decisions. Kinsey said it was his desire to see the plan resolve various coverage issues as well as the prime site. Cassingham and Mansourian confirmed that the plan will address these matters independent of the larger regional issues. Nordhoff asked if MERA would be forced to go to the 700 MHz system. Mansourian said no. The Federal Government wants to pay for the 700 MHz but what is being offered is not adequate and not detailed at this point. Kinsey confirmed this is a longer-term discussion, but the plan will assist us with these near-term decisions.

Gaffney asked if other counties have as good a system as we have. Mansourian replied no and that 700 MHz is a great idea that has not been thought through.

2) MERA Expansion Project – Change Order #1 for Motorola Capacity Improvement Project (Action Item)

Mansourian described the action item and requested authorization of the President to sign Change Order #1. Last year, MERA contracted with Motorola to install its new frequencies. Chuck and Nelson subsequently identified \$100,000 savings within the \$1M contract. Motorola, for corporate reasons, did not want to reduce the contract and has offered \$170,000 in equipment and services in

return. Both Executive Committee and DPW staff recommend accepting this offer. Staff also recommends that the option be used at the Sonoma site as part of the expansion project to reduce busies. Mansourian said that enhancing capacity at this location would give the NERA system the greatest benefit.

M/S/P Stevens/Irving to approve NERA Expansion Project Change Order #1 for the Motorola Capacity Improvement Project leaving \$100,000 in the contract in return for \$170,000 in Motorola Equipment and Services to be used for adding a channel at the Sonoma Mountain site using one of the five new frequencies at a cost of \$110,000, acquiring \$60,000 of additional system spare parts and authorize the President to execute C.O. #1.

AYES: ALL
NAYS: NONE
Motion carried.

3) Report on Coverage Issue Projects

Mansourian reported that the channel expansion project, adding two channels to the East and one channel to the West, is well underway. Equipment installation has begun at the remote sites.

a. Southern Marin

Mansourian reported that the ball is in Tiburon's court regarding the Martha Property on Paradise Drive and the County's possible requirement of a tower site there. Tyrell-Brown asked if the Town has taken any action to support this requirement. No formal action has been taken to date. Gaffney inquired about funding for the Martha project. Mansourian replied that if the Board of Supervisors were to require a site, this would not include the improvements. Kinsey noted that the strategic plan would address funding for all the coverage projects. Mansourian said all the Chiefs are supportive of the site requirement. He asked Nordhoff to join him in meeting with Town Manager Curran on this matter. Nordhoff asked about the status of the project EIR. Mansourian said we will lose the ability to impose this solution in the next 12 months, which means NERA could lose this opportunity to fix Southern Marin's coverage issues. Kinsey requested Mansourian and Nordhoff to get something in writing on this. DPW will recommend that the owners be required to provide the site and equipment. It is more likely the developer will only want to address their property's needs.

b. Tomales

Mansourian said this project has not been funded for construction. County Real Estate has talked with the property owners and drafted a lease which has been reviewed by NERA's General Counsel. Consultant Roberto is working on site layout, permitting and community acceptance. Mansourian will come back with a report when Roberto is done.

c. Stinson Beach

Mansourian said a satellite phone has been provided to the District, which has worked well.

Chief Stevens would like a permanent solution. Mansourian said this would require a full-fledged project which would be expensive.

4) Report on Regional Activities and Projects

Mansourian said that on NERA's behalf and all the agencies within the County, DPW staff, along with Sheriff's Captain Navarro and County Battalion Chief Brown, has been actively involved in regional initiatives tied to future grants for public safety communications system projects in the Bay Area. DPW has expended nearly \$110,000 in staff time in the participation, implementation and management of these activities over the past few years. These work groups and associations include Bayweb, UASI Governance, UASI Fleetmapping, Northbay Regional Communications Systems, Region 6 700 MHz Regional Planning Committee, and NAPCO FCC Coordination Committee.

5) Report on Federal/State/Regional Grants – Communications Grant Program Status Report

Mansourian noted DPW staff has obtained \$3.6M in communications and interoperability grants over the last two years for studies and equipment benefitting NERA and all Marin County public safety agencies. Staff efforts have put Marin in a leadership position in the Bay Area for future funding.

6) Status/Work Statistics Reports

Chuck reported that the system had 260,000 calls in April or 930 hours of air time which is a typical month. The average busy was 1.5 seconds.

E. Open Time for Items Not on Agenda

None to report.

F. Adjournment

The meeting was adjourned at 4:45 p.m.

NEXT: **REGULAR MEETING of NERA Board of Directors**
 Wednesday – December 8, 2010
 3:30p.m.