

Humboldt
County



RESOURCE
CONSERVATION DISTRICT

Board of Directors Meeting

The Mission of the Humboldt County Resource Conservation District is to enhance and improve the sustainability of natural resources by educating, providing training, and assisting private and public landowners and land users.

AGENDA

Thursday July 9, 2015

8:00 A.M.

Agriculture Center Auditorium - 5630 South Broadway - Eureka

(Items marked with * are attached to director packets)

1. **CALL TO ORDER** – Dan Cohoon, Chairman
2. **INTRODUCTIONS**
3. **ADDITIONS OR CHANGES TO AGENDA** (Gov. Code 54954.2(B))
4. **PUBLIC COMMENT PERIOD**
Any person may address the Board regarding any matter within the Board's jurisdiction that is not on the agenda. Speakers are asked to limit comments to three minutes. Members of the public may also comment on agenda items when they are discussed. (Gov. Code 54954.3(a))
5. **DISTRICT CORRESPONDENCE** (Circulated at meeting)
Incoming:
 - Urban Streams Restoration Program – notification of conditional award of \$716,634 from the Department of Water Resources for Francis Creek Rehabilitation and Restoration Project. Salt River Watershed Council is co-sponsor.
 - Humboldt Fence – request to discuss invoices and correspondence with Hanford re: Salt River Project.**Outgoing:**
 - No correspondence.
6. **HCRCD DIRECTOR'S REPORTS, REQUESTS, OR ANNOUNCEMENTS**
 - 6.1 Reports From Other Meetings Attended By Board Members
 - 6.2 Board Requests For Future Agenda or Information Items
 - 6.3 Other Announcements from Board Members
7. **BOARD ACTION ITEMS**
 - 7.1 Minutes for meeting of June 11, 2015* presented for approval
 - 7.2 Minutes for special meeting of June 23, 2015* presented for approval

7.3 July Financial Report presented for approval (Handout)

7.4 Resolution 15-17 Award of State Coastal Conservancy Funding for Salt River*

Background – Resolution agreeing to enter into and authorizing Executive Director to negotiate and execute agreement with the State Coastal Conservancy for Salt River Ecosystem Restoration Implementation Project.

7.5 Resolution 15-19 Adding Jill Demers as a signatory on the three accounts at Redwood Capital Bank and removing Donna Chambers as signatory.

8. **NRCS DISTRICT CONSERVATIONIST REPORT** - *Jon Shultz, NRCS District Conservationist*

9. **UCCE Report** – *Jeffery Stackhouse*

10. **SALT RIVER RESTORATION PROJECT REPORT*** - *Staff*

11. **MERCER-FRASER COMPANY'S CA PUBLIC RECORDS REQUEST***

12. **DISTRICT STAFF REPORTS and OTHER RCD PROJECT UPDATES*** – *Staff*

13. **NEXT REGULAR MEETING: Thursday August 9, 2015 at 8 a.m.**

Meeting location: Agriculture Center Auditorium, 5630 South Broadway (Humboldt Hill exit) Eureka, CA

14. **ADJOURNMENT**

Public Notice: In compliance with the Americans with Disabilities Act and Government Code Section 54954.2, if special assistance is needed to participate in a Board meeting, please contact the RCD at 707-444-9708 x 115. Notification at least 48 hours prior to meeting time will assist staff in assuring that reasonable accommodations can be made to provide accessibility at the meeting.

Humboldt County Resource Conservation District

Board of Directors Meeting
Minutes of June 11, 2015

1. Call to Order

Dan Cohoon, Chairman, 8:02 A.M.

2. Introductions

Directors Present: Peter Bussman, Dan Cohoon, Gary Markegard, Mark Moore, Gary Belli, and Jim Renner
Directors Excused: Hugo Klopper
Staff Present: Donna Chambers, Doreen Hansen, Curtis Ihle, Frances Tjarnstrom, and Summer Daugherty
Staff Excused: Lauri Barnwell
Guests: Rex Bohn, Humboldt County Supervisor, and Jeremy Svehla, GHD
Public: None

3. Additions or Changes to Agenda

No changes or additions.

4. Public Comment

No comments received.

5. District Correspondence

Summary provided and all documents circulated at meeting for review by the Directors and others present.

6. HCRCD Director's Reports, Requests or Announcements

Director Bussman announced that the Forestry Institute for Teachers hosted by UCCE is scheduled for July.

Chambers stated that the Farm Bureau has provided the County of Humboldt a permit application and check for permit fees for the "blanket" agricultural well permitting process.

7. Board Action Items

7.1 Discussion and Approval of Board Minutes from May 14, 2015

Motion by Director Moore to approve Humboldt County Resource Conservation District Board Minutes as presented from May 14, 2015. Second by Director Markegard. Ayes – Directors Belli, Bussman, Renner. Noes – None.

7.2 Discussion and Approval of May 2015 Financial Report

Chambers provided an update on status of all grants, funds availability, and potential funding. Discussion held on status of payments received and those in process from the funding agencies. An update was provided on measures being taken to keep RCD staff and operations moving forward, as well as projects that have been completed and will be closing.

Motion by Director Markegard to approve staff recommendations to pay operating expenses as presented, continue to manage expenditures to reduce costs, retain contract/consultant project payment retention and pay contractors/contractor invoices as matching funds are received. Second by Director Renner. Ayes – Directors Bussman, Belli, Moore. Noes – None.

7.3 Resolution #15-16 Special District Risk Management Authority 2015 Board Member Election Ballot

Chambers provided background on the association between HCRC and SDRMA. Directors discussed the panel of candidates nominated for the SDRMA Board.

Motion by Director Markegard to adopt Resolution #15-16 Special District Risk Management Authority 2015 Board Member Election Ballot and nominate candidates Swan, Gray and Seifert-Raffelson to serve on the SDRMA Board. Second by Director Moore. Ayes – Directors Belli, Renner, Bussman. Noes – None.

7.4 Resolution #15-18 Authorizing Staff to Submit Proposal to NOAA-NMFS Coastal Ecosystem Resiliency Project Grants Opportunity

Chambers provided background on this grant proposal currently being developed by staff seeking approximately \$1.5 million for construction activities for the Salt River project in 2016.

Motion by Director Markegard to adopt Resolution #15-18 Authorizing Staff to Submit Proposal to NOAA-NMFS Coastal Ecosystem Resiliency Project Grants Opportunity. Second by Director Belli. Ayes – Renner, Moore, Bussman. Noes – None.

7.5 Resolution #15-15 Award Bid for Salt River Ecosystem Restoration Project – Phase Middle 2A-2015

Chambers provided a slide presentation on the bidding process for Salt River Ecosystem Restoration Project – Middle Phase 2A, 2015. Chambers outlined the process and critical dates throughout the process. The solicitation was released May 20 by posting it with the Humboldt and Shasta Builder's Exchanges, posting it on the RCD website and sending courtesy emails to contractors who had asked to be notified of bid opportunities from the RCD. Chambers advised the Board of a "day/date" conflict in the legal notice published in the Times Standard that incorrectly stated the mandatory pre-bid meeting was Thursday, May 27, instead of Wednesday, May 27. She went on to confirm that no contractor had contacted either GHD or the RCD and said this caused them to miss the mandatory pre-bid meeting. Chambers went on to report that the day/date for the mandatory pre-bid meeting was clearly and correctly stated in all bid documents and notices with the Builder's Exchange and the RCD website.

Chambers reported nine contractors had representatives at the mandatory pre-bid meeting. Minor requests for clarification of information in bid documents were received during the question period. It was noted that Mercer Fraser did not submit any questions or requests directly to project engineers or to the RCD during the question period.

Five bids were received by the June 8 deadline and publically opened. Three bids fell within current available funding. The apparent low bid was from Mercer Fraser, however Mercer Fraser had no representatives present on the mandatory pre-bid site walk.

Discussion was held that before awarding a bid, it must be established that the threshold of "lowest", "responsive", and "responsible" have been met by bidder. Chambers provided information on these definitions as they pertain to the bids received. At issue is Mercer Fraser's non-participation in the mandatory pre-bid walk and whether the bid could be deemed "non-responsive" on this basis.

Chambers and Svelha reported that two formal bid protests were received by GHD/HCRC within the bid-protest period; one from Hanford ARC and one from McCullough Construction. Both bid protests were made on the basis that Mercer Fraser was not present on the mandatory pre-bid walk. Chambers reported seeking legal advice on this issue from Attorney-at-Law Nancy Diamond. Diamond provided legal guidance that Mercer Fraser not attending the mandatory pre-bid walk is a material omission to the bidding requirements that would be deemed as being "non-responsive". Chambers reported that at Diamond's direction, she crafted and sent a letter to Mercer Fraser. The letter informed Mercer Fraser of HCRC staff's determination of "non-responsiveness" thereby removing the bid from consideration and further informed Mercer-Fraser

that the staff recommendation to the Board would be to award the contract to Hanford ARC as the lowest, responsive, responsible bidder.

Chambers presented the staff recommendation to the Board of Directors to award a contract in the amount of \$1,882,311.00 to Hanford ARC, as the lowest, responsive, responsible bidder and approve and adopt Resolution #15-15 authorizing Board Chairman or his designee to execute contract documents with Hanford ARC, including any subsequent amendments, and issue a Notice to Proceed when all contract and bonding requirements have been satisfied.

Discussion followed the presentation of the staff recommendation. Chambers and Supervisor Bohn referred to communications received from Mercer Fraser the previous evening and in the morning directly preceding the Board meeting. The Board was provided copies of the letter sent by Chambers to Mercer Fraser and the two letters received from Mercer Fraser in reply and took time to review all correspondence.

Director Bussman asked about effects on construction season if bid award was not made at today's meeting. Svelha (Project Engineer) responded with comparisons to the timeframe of last construction season and the fact that this season is already one week behind last year's schedule. Svelha stated his concerns that every day start of construction is delayed, the potential to complete this year's work is decreased.

Board members asked for clarification on the timeframe allowed for Mercer Fraser to respond to formal bid disputes. Svelha responded that bid documents provide the protested bidder 2 working days to respond to a bid protest. Since the last bid protest was received June 10, Mercer Fraser would have until 5pm on Friday, June 12 to respond.

Chairman Cohoon recommended the Board table this item, allow time to receive a bid protest response from Mercer Fraser in keeping with the bid guidelines, and seek additional legal advice if necessary. Chairman Cohoon asked for public comment before leaving this item.

Supervisor Bohn provided public comment, first acknowledging he has a long-standing personal relationship with the Zabel family (owners of Mercer Fraser) and that Bohn's son is employed by Mercer Fraser, but would not be working on this project. Bohn stated that he stands up for local contractors and described how he was in a similar position for McCullough Construction 2 years ago. He encouraged the Board to award Mercer Fraser as low bidder and explained that Mercer Fraser did not attend that mandatory pre-bid meeting because they did not see it advertised until after it had passed. He also stated this was because, that the Builder's Exchange summary didn't come out until late in the afternoon on Friday, after Mercer Fraser offices had closed early for the Memorial Day holiday weekend. He went on to explain that Mercer Fraser didn't review the previous week's Building Exchange summary until later the following week, after the mandatory pre-bid meeting was held on Wednesday, May 27. He also stated that the bid announcement and time-frame was the shortest he's ever seen. Bohn also reiterated several of the arguments made by Mercer Fraser in their response letter about non-attendance of mandatory site visits not being grounds to determine lack of responsiveness. He also mentioned that Mercer Fraser is a large company with some \$50 million in work and so they aren't as "hungry" as the smaller contractors. He explained that because of this they don't always track bid opportunities closely. He also stated that Mercer Fraser had assumed there would be a longer period between the announcement and the mandatory pre-bid meeting, so they didn't look at the full solicitation announcement until after the mandatory pre-bid meeting has passed.

Chambers noted that the notices and timeframe for the mandatory pre-bid meeting all complied with requirements of public contract code and that representatives from 9 firms at the mandatory pre-bid meeting suggested an open, fair and competitive process.

Motion by Director Markegard to table Resolution #15-15 Award Bid for Salt River Ecosystem Restoration Project – Phase Middle 2A-2015 and to set a special meeting for this item on Tuesday, June 23, 2015, 5pm. Second by Director Bussman. Ayes – Moore, Renner, Belli. Noes – None.

8. NRCS District Conservationist Report

Shultz was unable to attend the meeting.

9. UCCE Report

Stackhouse was unable to attend the meeting.

10. Salt River Restoration Project Report

Staff provided an update on activities in preparation for this year's construction, including reducing potential bird nesting habitat through bird surveys and vegetation management with CalFire crews. Staff continues to work with landowners, agencies, and partners on a variety of aspects for the project. Discussion was held on future segments of Salt River and tributaries for restoration. Chambers noted that the Department of Water Resources Urban Streams grant award includes funding for a feasibility assessment of Williams Creek.

11. District Staff Reports and Other RCD Project Updates

Tjarnstrom provided copies of a grass identification booklet she and Jeff Stackhouse developed and published. It includes picture identifications for common grasses of Humboldt County along with their associated forage values.

Tjarnstrom also provided an update on activities related to the CDFW Wildlife Management Areas. Haying bids were opened on May 28th. Veronica Vellutini was apparent high bidder for all sites. CDFW is working to get required insurance documentation and completing permitting paperwork. Haying activities cannot commence until all documentation is finalized and only after July 1st for protection of ground nesting birds. Tjarnstrom is scheduled to meet with Charles Bartolotta June 17th to develop goals and objectives for each WMA, which are necessary for moving forward with the grazing RFPs for Humboldt County. Senator McGuire has scheduled a meeting in Del Norte County on August 3rd to meet about management issues on CDFW lands, and discuss other agricultural issues. Tjarnstrom and/or Director Bussman will attend this meeting.

12. Adjourned to Closed Session at 9:26 A.M. for Personnel Discussion

13. Reconvened to Open Session at 10:15 A.M.

Board action was taken to hold interviews with 3 candidates for the position of Executive Director. Interviews will be scheduled for June 13, 2015.

14. Next Regular Meeting – Thursday July 9, 2015 at 8 A.M.

15. Adjournment

The Board adjourned at 10:17 A.M.

Humboldt County Resource Conservation District
Board of Directors
Special Meeting
June 23, 2015

1. **Call To Order** 5:01 p.m. by Chairman Dan Cohoon

2. **Introductions**
Directors Present: Dan Cohoon, Gary Markegard, Mark Moore, Gary Belli, Jim Renner, Pete Bussman, Hugo Klopper
Staff Present: Lauri Barnwell, Donna Chambers
Staff Excused: Summer Daugherty, Curtis Ihle, Doreen Hansen, Frances Tjarnstrom
Guests: Jeremy Svehla-GHD, Jill Demers-HCRCD
Public: Denver Nelson-Salt River Watershed Council, Dena McCullough-McCullough Construction, Mark Cederborg-Hanford ARC, Steve Watson-Hanford ARC, Kelly Walsh-Attorney for Mercer-Fraser, Mark Benzinger-Mercer-Fraser

3. **Additions of Changes to the Agenda**
No changes to the agenda.

4. **Public Comment**
No comments received.

5. **Salt River Ecosystem Restoration Project-Action**
Chairman Cohoon asked for the staff report on this item. A calendar timeline handout, binder of correspondence and a power point presentation were provided by HCRCD Executive Director Chambers outlining the 2015 Salt River Ecosystem Restoration Project Middle Phase 2A bid process and various communications received. The presentation highlighted the events and information received by the HCRCD from bidders, review of discussion held at June 11, 2015 regular monthly HCRCD Board Meeting and communications between Mercer-Fraser, Hanford ARC, and McCullough Construction regarding Mercer-Fraser's non-attendance of the mandatory pre-bid site inspection.

Included in the staff report was the staff recommendation to the Board of Directors to find that Mercer-Fraser Company's failure to attend the May 27, 2015 mandatory pre-bid meeting as stated in the Advertisement for Bids and Bidding Requirements of the contract documents constitutes a material variance from the Bidding Requirements and recommends the Board determine the bid submitted by Mercer-Fraser Company to be non-responsive and removed from consideration and award a contract in the amount of \$1,882,311.00 to Hanford Applied Restoration and Conservation as the lowest, responsive, responsible bidder for Salt River Ecosystem Restoration Project—Middle Phase 2A and adopt and approve Resolution #15-15 authorizing the Board Chairman or designee to execute the required contract documents and issue a Notice to Proceed when all contract and bonding requirements have been met.

Kelly Walsh, attorney for Mercer-Fraser provided response regarding the published bid notices and contract documents as they relate to public contracting requirements, specifically addressing the advertisement of the mandatory pre-bid site inspection which Mercer-Fraser did not attend.

5.1 Hear Bid Protect filed by Hanford ARC against Mercer-Fraser Company in the Salt River Ecosystem Restoration-Middle Phase 2A.

Comments were provided by Mr. Cederborg and Mr. Watson of Hanford ARC regarding the bid protest filed by Hanford ARC against Mercer-Fraser Company because Mercer-Fraser failed to attend the mandatory pre-bid site inspection and the importance of the information provided through a field visit for construction bid development.

Motion by Director Moore to close communications regarding Item 5.1 Bid Protest filed by Hanford ARC against Mercer-Fraser Company in the Salt Rive Ecosystem Restoration-Middle Phase 2A. Second by Director Renner. Ayes-Belli, Markegard, Klopper, Bussman. Noes-None.

5.2 Hear Bid Protect filed by Hanford ARC against Mercer-Fraser Company in the Salt River Ecosystem Restoration-Middle Phase 2A.

Ms. McCullough of McCullough Construction presented the bid protest filed by McCullough Construction, Inc. against Mercer-Fraser because Mercer-Fraser failed to attend the mandatory pre-bid site inspection and the importance of the information provided through a field visit for construction bid development.

Motion by Director Markegard to close communications regarding Item 5.2 Bid Protest filed by McCullough Construction against Mercer-Fraser Company in the Salt River Ecosystem Restoration-Middle Phase 2A. Second by Director Moore. Ayes-Belli, Renner, Klopper, Bussman. Noes-None.

Public comment received from Mr. Nelson expressing concern about delays to the project due to bid protest and threat of additional litigation and potential effects on funding availability for future construction.

5.3 Award Bid for the Salt River Ecosystem Restoration-Middle Phase 2A.

Discussion by the Board in regards to importance of the required mandatory pre-bid site inspection as it relates to the soil and terrain as well as landowner access. Attorney for Mercer-Fraser was provided additional opportunity to respond to questions and explain why the mandatory pre-bid meeting was missed and why Mercer-Fraser did not contact the District directly in a timely manner. Mr. Walsh had no additional information to provide in response to the questions.

Motion by Director Markegard to approve the staff recommendation and award a contract for the Salt River Ecosystem Restoration Project-Phase Middle 2A in the amount of \$1,882,311 to Hanford ARC, as the lowest, responsive, responsible bidder and approve and adopt resolution #15-15 authorizing Board Chairman or his designee to execute contract documents with Hanford ARC, including any subsequent amendments, and issue a Notice to

Proceed when all contract and bonding requirements have been satisfied. Second by Director Moore. Ayes-Belli, Renner, Bussman. Noes- Klopper.

6. Personnel-Action

- 6.1 Approve hire of Jill Demers as Executive Director, a full time, regular position effective July 1, 2015.**

Motion by Director Moore to approve hire of Jill Demers as Executive Director, a full time, regular position effective July 1, 2015. Second by Director Markegard. Ayes-Belli, Renner, Bussman, Klopper. Noes-none.

7. Next Regular Meeting

Thursday July 9, 2015 at 8 a.m.
Agricultural Center Auditorium

8. Adjournment

5:54 p.m.