

MARIN EMERGENCY RADIO AUTHORITY

c/o Town of Corte Madera
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GOVERNING BOARD

Draft: 2/3/20

Minutes of December 11, 2019 Regular Meeting

Call to Order and Introductions

The meeting was called to order by President Pearce on December 11, 2019 at 3:31 p.m. at the Novato Fire Protection District Administration Office-Heritage Conference Room, 95 Rowland Way, Novato, California, 94945.

Pearce announced the availability of speaker forms to be completed by persons wishing to speak on Items D-1 and D-2. Speakers will be taken in order of receipt of forms. Self-introductions followed.

Governing Board Members & Alternates Present:

Town of Corte Madera	Todd Cusimano
Town of Ross	Tom Gaffney
Town of San Anselmo	Doug Kelly
County of Marin	Matthew Hymel
City of Sausalito	Bill Fraass (Alternate)
Town of Tiburon	Michael Cronin
Bolinas Fire Protection District	George Krakauer
Inverness Fire Protection District	Jim Fox, Shelley Redding (Alternate)
Kentfield Fire Protection District	Mark Pomi, Ron Naso (Alternate)
Marin Transit	Amy Van Doren
Marin Municipal Water District	Don Wick
Marinwood Community Services District	Jeff Naylor
Novato Fire Protection District	Steve Metcho, L. J. Silverman (Alternate)
Southern Marin Fire Protection District	Cathryn Hilliard
Stinson Beach Fire Protection District	Kenny Stevens
Tiburon Fire Protection District	Richard Pearce

Governing Board Member Agencies Absent:

City of Belvedere
Town of Fairfax
City of Larkspur
City of Mill Valley
City of Novato
City of San Rafael

Marin Community College District
Ross Valley Fire Department
Central Marin Police Authority

Staff Present:

MERA Executive Officer	Maureen Cassingham
MERA General Counsel	Trisha Ortiz
MERA Assistant General Counsel	Casey Strong
MERA Deputy Executive Officer – Next Gen Project	Dave Jeffries
MERA Administrative Assistant - Next Gen Project	Maura Griffin
MERA Operations Officer	Ernest Klock
DPW Communication Services Manager	Ethan Simpson
Recording Secretary	Lorena Barrera

Guests Present:

Federal Engineering	David Mortimer
JRA Associates	John Roberto
Marin County Public Works	Betsy Swenerton, Capital Planning and Projects Manager
Marin County Public Works	Jason Wong, Capital Planning and Projects
Marin County Public Works	Raul Rojas
Member of Public	Cecil Nielsen

Pearce requested a motion to reorder the Agenda to consider Items D-1 and D-2 after the Consent Calendar. The minutes will reflect the order of business as posted.

M/S/P Cusimano/Hilliard to reorder Agenda Items D-1 and D-2 for consideration after the Consent Calendar.

AYES: All
NAYS: None
ABSTENTIONS: None
Motion carried.

A. Closed Session

Public Employee Performance: Executive Officer Evaluation
Pursuant to Government Code – Section 54947

Pearce said the Executive Officer Work Plan Committee met to review Executive Officer 2019 goals, performance evaluation for same and proposed 2020 goals. The consensus of the Governing Board was that no Closed Session was needed.

B. Consent Calendar

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

- 1) Resolution of Commendation – Retiring Fire Chief Chris Gray, City of San Rafael, MERA Executive Board Member
- 2) Resolution of Commendation – Pam Drew, City of Novato Councilmember, MERA Governing Board Member
- 3) a. Official Transcript from October 10, 2019 Governing Board Special Meeting.
b. Minutes from October 23, 2019 Governing Board Regular Meeting
- 4) Proposed CY2020 Agreement for Management and Administrative Services with Regional Government Services (RGS) for MERA Executive Officer and Proposed 2020 Executive Officer Work Plan
- 5) 2019 Annual Progress Report on Authority Operations and Activities
- 6) MERA 2019 Auditor Communication with Governing Board and FY18-19 Audited Financial Statements and Auditors' Report
- 7) Report No. 88 on Strategic Plan Implementation
- 8) Proposed Addendum to Extend Original NBS Measure A Parcel Tax Administration Agreement
- 9) Report on MERA Website Enhancements
- 10) Proposed Six-Month Notice: Non-Member System User Fees
- 11) Proposed Records Management Imaging Project

Cassingham distributed Item B-10a, which is a List of MERA Mutual Aid, Automatic Aid, Member Contractors and Other Member Partners with Letters of Agreement permitting Non-Member use of the MERA System.

M/S/P Gaffney/Kelly to approve Consent Calendar Items 1 through 11 as presented.

AYES: All
NAYS: None
ABSTENTIONS: None
Motion carried.

Fox commented on the presentation of Agenda items which differs from his Agency's agendas and asked if we are under legal obligation to note the action to be taken. For example, under Item C-2, no action is listed. He asked if legally we can take action on an item that is not posted as an action item. Ortiz responded that items as listed can be acted on.

Fox asked if items can be identified as what is informational and what is actionable. Ortiz said this would be a Governing Board decision on the presentation of items which is established by Board policy.

Kelly noted the misspelling of his name in the October 23, 2019 Governing Board minutes.

C. Executive Officer's Report – (Cassingham)

1) Report No. 62 on Next Gen System Project and Budget – (Jeffries)

Jeffries recapped Project calls and meetings and noted the field survey was close to being wrapped up. The Project Budget reflects its adoption on 12-12-18 and expenditures paid through 7-31-19. The Budget includes approval of C.O. #8 (MPLS) which requires a budget adjustment for C.O. #8 vendor equipment, related services and taxes in the amount of \$676,163, and the companion SUA of \$691,677.

On December 2, 2019 the Finance Committee recommended that the Unappropriated Project Reserve be used to fund C.O. #8, which will leave a balance of \$2,632,160 from that revenue source. These funds will be directed to Line Items 1 and 13. With this, a combined Project Contingency and Unappropriated Project Reserve will be reduced to \$5,473,059 or 7.4% of the Project total. This is enhanced by the Contingency built into Line Item 3 for Site Acquisition/Construction. Gaffney said the Finance Committee wanted to keep the \$4M Contingency intact using the Unappropriated Project Reserve first.

M/S/P Gaffney/Hilliard to approve the use of the Next Gen Project Budget Unappropriated Project Reserve to fund Change Order #8 (MPLS)

AYES: All
NAYS: None
ABSTENTIONS: None
Motion carried.

2) Proposed Third Amendment to Next Generation Radio System Implementation Agreement Between the Marin Emergency Radio Authority and the County of Marin

Cassingham summarized the report, noting the Governing Board's first 3-month extension of the original Next Gen Implementation Agreement, which was due to expire on June 26, 2019, was approved on June 30, 2019. Intent of the extension was to allow the parties to further review MERA's proposed changes. A second extension was approved on September 25, 2019 to December 31, 2019, again to permit more time for negotiation of new terms. In the interim, DPW has proffered 3 iterations in response to MERA's requested changes, including yesterday's exchanges, which failed to achieve agreement of the parties. She deferred to Pearce and Cusimano as MERA's representatives in these negotiations.

Pearce said exchanges between the parties have occurred for many months wherein greater controls over the Next Gen Project have been advocated by MERA which have not been accepted by the County, as our contractor. These controls are important to MERA regarding Project costs and schedule associated with the contractor and its subcontractors.

Pearce noted the Third Amendment in the Board packet reflects MERA's original revisions. Since packet distribution, various iterations have been exchanged between MERA and County staff and MERA and County Counsels, but have not produced agreement. What is before you is a fair representation of MERA's position to successfully move the Project forward. He noted the County is unlikely to agree to this. If the Governing Board chooses to move forward with its position, we will see how the County chooses to respond.

Cusimano said this has been a long conversation over many months about the Agreement and the companion issue of the MERA Organization Chart. He said until recently he was not aware the Executive Officer and Operations Officer reported side-by-side to the Boards. When it comes to oversight, he equates these reporting relationships to city/town manager structures where the Executive Officer is like the City/Town Manager and Operations Officer is the Public Works Director. He used C.O. #8 (MPLS) as an example where in the Operations Officer would work with and through the Executive Officer, much like Klock has worked through Hymel.

In changing the Organization Chart, Cusimano recognized it changed the Implementation Agreement. The last 6 months reflects time taken over relationship problem solving, not just Agreement differences. As a result, there is concurrence to continue to work on the Organization Chart as a separate issue and focus solely on the Implementation Agreement Amendment. Ortiz and County Counsel Brady have been helpful throughout but it is time to pause on reporting relationships and install Implementation Agreement controls on the MERA side. He added we have an obligation to be fair to the Operations Officer, but Project controls must be asserted by MERA.

Cusimano said, if the County does not agree to MERA's changes, they will put the Agreement on hold and pause the Project, which is not good governance. The County's position is not to present MERA's changes to the Board of Supervisors. He added that continuance of the Agreement will likely fall short of resolving the impasse. While he and Pearce are in agreement with MERA's position, and will continue these negotiations, they are amenable to mediation to facilitate resolution. Some progress was made between the parties with the assistance of Counsel before this meeting. However, an agreement was not reached. He maintains the core issue of how MERA is governed remains central to the MERA/County relationship. Clearly reporting relationships are key to resolving issues ahead of these situations. There is agreement to continue working on this.

Hymel noted his frustration over the willingness to come to agreement. Last Spring, MERA presented a letter to the County over Project Implementation concerns without benefit of notice to them. The County responded in writing and hired 2 additional staff for Project implementation. The County mentioned the original Implementation Agreement needed extension beyond June 30, 2019. Twice this Agreement has been submitted to the Governing Board without consulting them. During the summer, some agreement was worked out along with a tentative understanding of the issues. Then the organization structure was raised. If this is the case, this would require a different agreement.

Hymel said the County and MERA met on October 30, followed by his emails to meet again before the December 31 deadline. The County has been willing and able to meet throughout November.

Hymel said the County received an email last Monday with what MERA intended to present to the Governing Board. For the last week and a half there has been a rush to come to some agreement before the Governing Board meeting, which the parties were unable to do. He said this is a partnership relationship and the County is a member, too. The County is not a for-profit contractor that is not making money off the Project, but trying to make it work. The County has every incentive to make the Project work as their share is 37% of the total MERA bill.

Hymel said their concern is these revisions will add time to the Project. The County is willing to do mediation to resolve these issues. What is needed is a better trust relationship between MERA and the County. He is frustrated for the County staff working on this, as they are doing the best they can. There is a total lack of partnership. The Board of Supervisors will not approve the proposed Third Amendment and will not operate the Project without a contract, which expires December 31. A contract extension will permit the Project to continue. He believes the County is the best prepared and the best agency to implement Next Gen.

Hymel said the County is open to transitioning its contractor role but only if it is confident the Project will not miss a beat. This is an option, as well as working on a better relationship going forward. Cusimano said County staff is outstanding and agrees we are partners. He was concerned about the County's efforts to take the Executive Officer out of a decision-making role. While we are partners, MERA is the most important agency and the governance model is broken. Cusimano is happy to step down from representing MERA in these matters. We nonetheless have issues with MERA governance and progress of the Project.

Cusimano said he was part of the Operations Officer selection process and feels Klock and his staff are outstanding. Project issues, however, should be resolved between Cassingham and Klock. This is the background but the issue that remains is how we set us up for success. He hopes we can continue the contract, but this is

where we are. Hymel added he doesn't want to negotiate in front of the full Board which is not the right process. Whoever MERA assigns to work on this including mediation, the County will negotiate in good faith.

Hymel noted that two times the proposed MERA changes have included MERA chargebacks to the County for its work. The \$25,000 reduced contract threshold is also problematic because of the number of construction contracts upcoming and the gauntlet of MERA approvals. This will add time to the Schedule which is already behind. More controls could trigger County delays. Cusimano said the Operations Officer is given authority for contracts up to \$1M with no checks and balances, leaving it up to the County Deputy Director of Public Works.

Hilliard, representing her agency on the MERA Board and her constituency, recently asked Pearce to come to SMFPD to explain why the Project is so delayed. She also noted delays with the SEIR, which was promised in early-January, then March, summer and now December. It is her understanding the Governing Board of the JPA represents MERA policy and their respective constituencies. She said that in private industry, given the Project delays, it would be appropriate to reconsider the contractor. Hymel said DPW worked with MERA every step to get through the CEQA process. The County does not control the schedule but 18 months for CEQA is par for the course. Every step required decisions along the way over the level of detail MERA required to adequately comply with CEQA, including weekly meetings with Counsel.

Hymel reiterated they are happy to assist with any transition but doesn't want the Project stopped at the end of the month. We should extend the Agreement and talk about the transition. Kelly said he is not up to date on these problems or the issues with the organizational chart. He said the Board should not approve an Amendment that will not be accepted by the County. He is uncertain over the adequacy of the time of the extension and suggested another meeting to become familiar with the issues. He supports temporary continuation of the Agreement and another meeting to better understand the background.

Gaffney said he reviewed MERA's proposed changes and nothing seemed difficult to resolve. For example, he feels the Board should be able to approve a \$900,000 Project contract. None of the other changes look onerous with the exception of Exhibit A Section J, which is not clear to him. He said the other sections could be approved and we should be doing that today.

Van Doren asked if MERA has the bandwidth to approve the number of anticipated contracts over \$25,000. She asked if the Executive Officer has the resources to evaluate each contract. Given the County has the ability and is contracted to do this, what are our expectations of MERA's review capacity, including the Executive Officer and governing structure? Hymel said the County produces monthly reports on the Project and what is spent. Gaffney said Cassingham would use DPW to

perform studies and take bids followed by Governing Board approval. He added contracts are currently being approved up to \$1M the Governing Board has not voted on.

Hilliard said the Governing Board sets the policy on the thresholds of approval. The Board has the fiduciary responsibility for those approvals. These voter-approved parcel taxes are subject to review and audit including the pace of expenditure. She recognized the County added positions to help with Project implementation after MERA requests. Ultimately, the responsibility rests with the Governing Board for this Project.

Hymel said the concern is finding the right level of MERA oversight. He added there will be a number of contracts over \$25K to construct the sites and we don't have a great track record for resolving things quickly. What are the trade-offs for granular oversight and timely Project delivery? This is the County's concern, about adding to the timeline for which they might be blamed for delaying the Project longer than it has.

Jeffries noted MERA is structurally not a single organization but two separate departments for Administration and Operations, neither of which reports to the other. This is how organization structure issues arose. With the exception of the County, none of the other member agencies operate this way. There is no one point of oversight. You have a County employee who is responsible for overseeing County contracts. With regard to MERA billing the County for its services, this is consistent with the County's role as a vendor. Basically, you have a County piece and a MERA piece trying to operate as one organization, which is longstanding and a part of the oversight issue.

Pearce agreed the organization structure would be reviewed separately from the agreement. Hymel said this would require an entirely different contract. Pearce noted the structural issue is aside from this Implementation Amendment. What is before the Board today is not egregious. He added that nothing he would proffer to the County at this point would be acceptable. Hymel disagreed given the recent 5 weeks of exchanges over issues before the Governing Board to be further discussed. Cassingham said these conversations and meetings have actually been over the last 6 months. Pearce said the exchanges with Rojas and Klock didn't address any of MERA's concerns regarding the requested revisions which triggered this response. Hymel and Pearce agreed they want a respectful relationship.

Gaffney suggested Governing Board action on what has been presented which will go to the County for further negotiation. Hymel said that is one-sided negotiation. Gaffney said this is what MERA wants to do. Hymel said work would stop on the Project on December 31. In response to Cassingham, Hymel said there are things the County could agree to but they can't agree to this. We can extend and talk further and are open to do so. They are also open to mediation.

Cusimano said he and Pearce have been working on this with the County and feel the Executive Officer has the bandwidth to review these contracts. The Operations Officer has a role in developing the contracts and MERA can review and approve them. Cusimano asked MERA Counsel if there is anything egregious in asking a vendor for these revisions. While there is room for negotiation on several, she advised this is not beyond what is reasonable. He asked where the Governing Board stands on this as to reasonableness.

In response to Van Doren about Cassingham and Klock meeting on these contracts, Pearce said MERA has no idea what has been contracted under \$1M. Cusimano said Cassingham has to be MERA's early warning system on these commitments, including reasons for schedule delays and report to the Governing Board accordingly. This is the type of communication that should be happening on a routine basis so there are no surprises and so neither MERA or the County are set up for failure. While the organization structure is a bigger conversation, we need to address the Agreement issues and communications now as we approach big Project milestones.

Cusimano supports more discussion but feels it must be in good faith in recognition of MERA's role with the Project. It is up to the Board to make this call. Possibly others can be added to the discussions. Klock said he is anticipating 40 to 60 contracts for construction over the next year for biologists, culturalists and monitors for the sites. Cusimano said he can present these contracts to Cassingham for review before approval. Klock said the \$40M contract with the County is a check and balance Project budget which requires him to identify warning signs to the Governing Board.

Cusimano said he is uncomfortable about the FE reporting process. He wants the Executive Officer early on asking early warning questions and providing support for the Operations Officer to deal with the holes. This is about a Governing Board fiduciary responsibility as well as a partnership and team. As a Board Member, he wants to protect MERA.

In response to Van Doren, Cassingham said she and Jeffries could be mobilized to provide this level of support using a subset of the Board to handle matters expeditiously. She added her disappointment over this Project going into 2023. Measure A was passed in 2014 and the Measure A Citizens Oversight Committee is concerned about Project delays and Change Orders that may have been caught with more effective Motorola Contract evaluation. She remains concerned over approval of Project contracts she is unaware of.

Cusimano asked Cassingham if, based on her experience, she has the bandwidth to oversee large public works contracts. She said the ability to work with trust in a timely way is everything and she can make effective bandwidth happen along with

the accelerated Governing Board meeting approval process. She cannot dictate Klock's commitments and priorities but feels MERA and the Project have been a stepchild, dependent on relationship goodwill. Jeffries added, given the organization structure, that there is no administrative oversight of Operations.

Jeffries, in response to Hilliard, confirmed there is a Project Oversight Committee of Board Members that meets as needed. Hymel responded to the stepchild comment, stating MERA is a top priority for the County. He added DPW worked tirelessly during the PSPS to ensure site fueling without thanks. The County has been working on the System for 25 years, so how can it be a stepchild? Pearce confirmed that this work is under County contract. Hymel said the County is the one that keeps the System running with only seconds of downtime over the last year, so how is it a stepchild?

Hilliard said the Amendment deals with Next Gen as well as Operations. We are trying to get to a system that was promised in 2019, now likely is 2023-2024. Members have constituents to answer to plus they are now looking at the County and Wildfire Prevention. Given this, how do we do forward and get it right? Hymel agreed that, if needed, the County would assist with transition to another fiduciary if requested by the Governing Board.

Rojas took umbrage with the Project being described as a stepchild and said that this is the only Project he has ever assigned an Assistant Director to act as lead. Klock spends almost 80% of his time on it. Hymel said this is the Executive Officer's attitude. Cusimano said she focuses on what is best for MERA.

Cusimano suggested extending the Agreement and scheduling a Board meeting for further direction along with further MERA Counsel input and potentially mediation. Kelly said there is no point to advancing the proposed Amendment if the County will not approve it. Pearce reiterated there is nothing egregious in it. It was noted if there has been some progress, possibly it can be built on. Gaffney said a good start would be MERA's key points to begin negotiations. He would be willing to approve MERA's proposed Amendment as a start. We need to know what in our position is not acceptable. Why can't the contracts the County has developed come to MERA? MERA however, should be open to negotiating contract thresholds if necessary.

Van Doren assumed MERA and the County had come to agreement on the Amendment which is why it is on the Agenda. If Board review of Agreement principles was needed, this should have been done six months ago. Gaffney said MERA is not getting something from the County we want to sign. He added the Board should give MERA's negotiating points to proceed from here.

Pearce suggested Board approval of the proposed Amendment. If it is not accepted by the County, it forms a basis for follow-on negotiations. Hymel said the

Agreement would expire given the last BOS meeting of the year is on December 17. Gaffney recommended approval of the Proposed Third Amendment as presented using the proposed revisions as a basis for negotiations. Kelly expressed agreement with the President, Vice President and Executive Officer points but could not support something the BOS will reject. Cusimano asked for Board input on MERA's points. Hymel feels we can reach agreement if the Board's points are clear and more time is permitted. Cusimano supported a three-month extension with Board consideration of negotiating team composition along with direction on mediation and MERA Counsel participation. Van Doren suggested adding milestones with the extension to assure progress and we don't stall. In response to Pearce about the latest agreement iteration, Hymel confirmed with more time we can reach agreement. In response to Cronin, Pearce said this gets down to governance. Cronin added MERA is an independent entity charged with spending significant taxpayer funds and the County is charged with implementation but there is a gap. Hymel said the Project goals are the same for the County and MERA and there are differences of opinion on how to achieve them. Cronin agreed there is a fundamental problem with governance and Project oversight. He added it is MERA's responsibility to implement the Project. Pearce said we can implement the agreement without changing the org chart. Rojas said, however, it would be an entirely different agreement with a change in organization structure.

M/S/P Cusimano/Hilliard to approve the Third Amendment to the Next Generation Radio System Implementation Agreement Between the Marin County Emergency Radio Authority and County of Marin as Amended to Provide for a 3-Month Extension of Original Agreement Terms.

Cusimano added the current team of Pearce and himself will work with MERA General Counsel over the next 90 days on final resolution with the County.

Pomi thanked Cassingham for her comments and candor.

AYES: All
NAYS: None
ABSTENTIONS: Kentfield Fire Protection District
Motion carried.

D. Operations Reports – (Klock)

- 1) Proposed Resolution of the MERA Governing Board Certifying the Final Subsequent Environmental Impact Report (SEIR) (SCH#99092073) for the MERA Next Generation Radio Communication System; Making Findings Pursuant to the California Environmental Quality Act; Adopting a Statement of Overriding Considerations; and, Adopting a Mitigation Monitoring and Reporting Program.

Klock reported the action to be taken as adoption of the resolution certifying the MERA Next Generation Radio Communications System Final Subsequent Environmental Impact Report (SEIR) as adequate and complete pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines. Both the Draft and Final SEIR have been prepared by MERA staff and reviewed by MERA Counsel. The SEIR presents and evaluates the environmental effects of changes brought about by the Next Gen System as compared to the existing MERA System.

Klock noted his report provides background on the original MERA EIR. The Next Gen System will upgrade the existing Marin Countywide System to improve radio communications capabilities. It will retain and upgrade agency equipment at 10 existing sites, decommission 5 existing sites and add equipment to 8 new sites not previously part of the existing MERA System, for a total of 18 active sites.

Klock cited the Public Noticing of the Project, noting over 400 agencies had been contacted, along with individuals on a distribution list included in the Project Administrative Record. On May 17, 2018, MERA published a Notice of Preparation of the draft SEIR for the Next Gen Project. On May 31, 2018, MERA conducted a public scoping meeting to hear public comment on issues to be evaluated in the draft SEIR. On June 18, 2018, the public comment period closed.

Klock referred to the Additional Public Outreach undertaken as cited on Page 4 of his report. These meetings during 2018 were intended to address site-specific environmental concerns. On September 6, 2019, MERA issued a Notice of Completion initiating a 45-day public review and comment period on the draft SEIR in compliance with CEQA. During this period, the MERA Governing Board conducted a public hearing on October 10, 2019, to receive testimony on the adequacy of the Draft SEIR. The public written comment period concluded on October 21, 2019. Klock stated MERA received a total of seven comment letters or emails about the Draft SEIR during the public review period. MERA prepared individual written responses to each of the eleven comments received and these comments, along with written responses to each comment received, are incorporated into the Final SEIR. MERA prepared and on November 15, 2019, circulated the Final SEIR. Copies of the Final SEIR were circulated to all public agencies that submitted comments along with members of the public submitting comments. A Notice of Availability of the Final SEIR was published in the Marin IJ and Sonoma Press Democrat on November 15, 2019 as was a notice of the December 11, 2019 meeting to consider certification of the SEIR. He noted receipt of communications from the Skyview neighbors during the week of November 19, 2019 and he explained the CEQA process. Their concerns included RF exposure and aesthetic impacts of the proposed Project at the site. He referred them to the relevant sections of the SEIR for this location and appended studies stating their concerns had largely been addressed therein. The significant and unavoidable visual impact however, cannot be mitigated to less than significant.

Klock said he received an email today from Michael Sharp with a request for further alternatives analysis for the Skyview site and the distribution of further visual analysis to residents of certain streets. This includes erection of a story pole to help visualize the proposed facility. He also received an email from State Parks relating to an incorrect parcel reference in the Final SEIR. He quoted the email “requesting the MERA Governing Board should request the proper land use research and due diligence for its new site #25 by conducting a property boundaries survey prior to certifying its environmental document.” Klock said the MERA plan does not place equipment outside the existing improvement and merely requires a new lease agreement to place equipment on existing towers and enclosures. He added these were the only 2 written comments received outside the written comment period.

Klock presented the findings of the Final SEIR noting the Next Gen System would result in significant unavoidable visual/aesthetic impacts at 5 of the new communications sites, namely Skyview Terrace, Tomales, Coyote Peak, Muir Beach Water Tank, and Mill Valley Water Tank. Mitigation measures such as fencing, landscape screening and painting would soften the visual impacts but would not reduce the impacts to less-than-significant levels. He added no other feasible mitigation measures have been identified, as explained in more detail in the CEQA Findings attached as Exhibit 1 to the proposed Resolution.

Klock said the SEIR also considered impacts of the Next Gen Project relative to cultural resources, biological resources, radio frequency exposure, construction, air quality, water quality, noise and geologic and seismic hazards. Mitigation measures are incorporated into the Mitigation Monitoring and Reporting Program which is attached as Exhibit 3 to the proposed Resolution.

Klock reported the SEIR evaluated 4 alternatives to the Proposed Next Gen System. Alternatives were No Project, Upgrade Existing Sites, Original Motorola Solutions Proposal and Revised Project Design. Based on analysis, the No Project Alternative would result in the greatest reduction in Project impacts and would be the environmentally superior alternative. However, where the environmentally superior alternative is the “No Project” Alternative, CEQA requires that the SEIR also identify an environmentally superior alternative from among the other alternatives. Based on the analysis, and because Alternatives 1-4 do not meet the basic objectives of the Project, it has been determined that the proposed Next Gen Project would be the environmentally superior alternative. The CEQA findings attached as Exhibit 1 to the proposed Resolution includes findings as to why each of the four alternatives do not meet specific key Project objectives, and so are considered “infeasible” in the context of CEQA.

Klock said the attached Exhibit 2 presents the “Statement of Overriding Considerations” and acknowledges the Governing Board finds that each of the

significant and unavoidable Project impacts are outweighed by Next Gen Project benefits. Staff recommends Governing Board approval of the proposed Resolution. He introduced Roberto as one of the consultants who assisted with Final SEIR preparation.

Pearce asked for comments from the Governing Board for staff response. Gaffney asked how the recommended Project differed from Alternative 4 Revised Project Design. Roberto said Alternative 4 includes Mill Valley, Skyview Terrace, Coyote Peak, Tomales and Muir Beach. Klock said these site impacts are not mitigated. Roberto noted a 200- to 300-foot tower would be needed as a Skyview option to connect the Big Rock site and Prime site. Skyview is not an antenna site, strictly a microwave site, which does not have the RF exposure of other sites. He added there were really no other alternatives here.

Hearing no other Board comments, Pearce called for public comment. Cecil Nielsen from Skyview terrace, Salvador Way, presented a letter dated November 18, 2019, to Klock stating neighbors were not notified of MERA's October 10, 2019, neighborhood meeting. Klock had noted no one attended. She asked for consideration of another site for the equipment and again noted the lack of notification. She added she has been exchanging emails with Klock. There is a preschool, senior citizens' center, and disabled person center in the area, and none have received notification.

Nielsen said an emergency tower was installed at Skyview 15 years ago, which was horrible. The City of San Rafael had not notified them about it. Boro and Brown from the City helped take it down at a cost of \$25K. She requested greater notification vigilance from the Governing Board. Many do not read newspaper notices but with email now, notification is easier. She added residents have no idea what the structure will look like. They have asked for photos and a story pole with no response. Over the summer, hearing nothing more, neighbors thought an alternate site was selected. Only in the last few weeks have they been aware the site is going forward. Other neighbors are not in attendance due to lack of notification or conflicts.

Nielsen asked the Board to meet with neighbors to give them a say. There is hiking in the area and their park, plus it is a teenager hangout. An alternative site would be less subject to tampering. The school in the area was sold for development and all they have is the hill. She recognizes the need for the new system, but would like to preserve the hill. Klock responded that all Project notification requirements have been in compliance with CEQA. Skyview residents were given an in-person presentation on August 23, 2018, which described the site improvements. There were no alternatives at the time because the SEIR draft was still under development.

Klock said alternatives, however, were studied in the draft SEIR. He recalled notifying Nielsen and her neighbors, and pointing out the relevant sections of the

document for their reference, including appearance of the facilities from various locations. Nielsen clarified she contacted Klock because she heard something might be happening at the site. Klock clarified with Nielsen that she was present for and organized the August 23 neighborhood presentation. Nielsen said she contacted Tom Roach at Marinwood CSD regarding the meeting. Klock noted that residents were provided email contact information for the Project SEIR. Nielsen said she emailed Klock the same day, which Klock did not recall. He reiterated the CEQA notices have been compliant on this project.

Roberto concurred that the notification process for the Project was diligent and compliant, noting its 18 sites and the many neighbors near them. He added the law provides for notice in 2 newspapers, in general circulation, one in each County. He cited the Marin IJ and Sonoma Press Democrat, including courtesy notifications of other newspapers in Marin County. The mailing list includes 400+ addresses including homeowners associations and other groups identified by the Marin County Planning Department. The issue before the Governing Board is whether the SEIR adequately describes the Project's environmental impacts. He added, for example, the RF impacts are not an issue at any of the sites. Specifically, at Skyview, there is almost no impact given it is a microwave site. He said the adverse visual impact is an issue.

Roberto concluded that the SEIR should be assessed based on the accuracy of the site description, assessment of impacts and vetting of alternatives. He believes the SEIR has done that, recognizing some visual impacts cannot be mitigated. Kelly noted the October 10 hearing PowerPoint did effectively portray the visual impacts at Skyview and other sites. Kelly emphasized that this Project addresses the public safety necessity of the Project. Klock offered to send the Skyview visual impact visuals from the SEIR to Nielsen, noting the entire document is available on the County and MERA websites.

There being no other public comments, Pearce asked for other Board comments before considering the proposed Resolution. There were none.

M/S/P Kelly/Cusimano to Adopt Resolution No. 2019-07 Certifying the Final Subsequent Environmental Impact Report for the MERA Next Generation Radio Communications System (SCH#99092073); Making Environmental Findings Pursuant to the California Environmental Quality Act; Adopting a Statement of Overriding Considerations; and Adopting a Mitigation Monitoring and Reporting Program.

AYES: All
NAYS: None
ABSTENTIONS: None
Motion carried.

2) Proposed Resolution of the MERA Governing Board with Findings for Approval of the MERA Next Generation Radio Communications System and Approval of the Preliminary Design Plans.

Klock reported adoption of this Resolution will result in the approval of the MERA Next Generation Radio Communications System and Preliminary Design Plan for the Project. It adopts the Next Gen Project as described in the SEIR with conditions that implement the recommended mitigation measures contained in the SEIR. These mitigation measures will result in only minor modifications to the Project.

Klock said in order to mitigate the Project's aesthetic impacts, mitigation measures will require fencing, colors and landscaping to screen facilities from view. However, even with the implementation of measures to reduce the visual impact of the Project, the aesthetic/visual impact will remain significant and unavoidable at specific locations. The recommended Project approval resolution incorporates a Statement of Overriding Consideration (Exhibit 2) adopted in Resolution No. 2019-07 to certify the SEIR. CEQA requires the Governing Board to adopt a Statement of Overriding Considerations in order to approve the Project despite its significant unavoidable aesthetic/visual impact on the environment. All other environmental impacts identified in the SEIR will be mitigated to a less-than-significant level with the adoption of the mitigation measures identified and described in the SEIR and the Mitigation Monitoring and Reporting Program.

Klock stated, as the Governing Board is aware, the challenge MERA is responding to requires a balance between minimizing the significant aesthetic impacts and other less than significant impacts of the Project while ensuring that there is adequate radio coverage to allow first responders and other personnel to communicate effectively during an emergency and day-to-day operations. The MERA staff has explored many options to the proposed Project as detailed in the Alternatives Chapter VII of the Draft SEIR, and believes that the proposed Next Generation Project, as conditioned, minimizes to the extent feasible the identified environmental impacts of the Project while attaining the level of radio coverage for which the Project is intended.

Staff recommends that Governing Board approve the attached Resolution No. 2019-08 approving the Next Generation Radio Communications System and the Preliminary Design Plan.

Klock pointed out that the incorrect parcel reference for the privately owned OTA parcel has been corrected.

Hilliard asked if Nielsen's concerns at Skyview can be addressed or if we were beyond that point. She added that sometimes, for the sake of all, we have to accept visual changes. Klock said regarding Skyview and the Proposed Project, the mitigation measures are to construct an earthen berm, contour the fencing, and add

tan color to the slats to hide the enclosure from view from different angles. The social trail going through the Project site will be reestablished but no mitigation is possible for the 35-foot tower. Galvanized green paint color for it will seem to make it disappear against the sky. It can still be seen from 101. Klock said it is within the Board's purview to direct further study of alternative locations. Rojas added if more study is directed, this would delay Governing Board action on this matter, along with the Project Schedule.

Pearce asked for public comment. Nielsen asked if other studies had been done on alternate sites. Klock responded that a 300-foot tower had been reviewed at the EOF facility. A Verizon site at the ridge one-half mile to the north had been mentioned. The taller tower would be necessary to get the microwave link between the EOF and Big Rock, which is a larger visual impact than the proposed Project. He confirmed only the tower at EOF had been reviewed. There are hundreds of other alternatives with more environmental impacts.

Nielsen said she hadn't seen a rendering of the mitigation measures he presented for the Skyview site. She also asked if site tampering had been considered. Klock pointed to the visuals in the SEIR. He added that equipment will be securely fenced. Nielsen said teens still go over barbed wire fencing at the water tower. She is putting MERA on notice about this. She reiterated lack of courtesy in neighbor notification. For example, the preschool is unaware of what is coming and the senior center has not received notices. She is asking for MERA, as a new neighbor, to be a good neighbor.

M/S/P Kelly/Gaffney to adopt Resolution No. 2019-08 Approving the MERA Next Generation Radio Communications System Project and Directing the Executive Officer to File a Notice of Determination for the Project.

AYES: All
NAYS: None
ABSTENTIONS: None
Motion carried.

3) Report on Status of Motorola Change Order #8 Progress Payment – Multi-Protocol Label Switching (MPLS) for Microwave Network.

Klock provided an informational update noting he has received revised Change Order language from Motorola to reflect it will only include MPLS equipment and services to install same. SUA services will not be payable until years 4-15.

4) MERA System Operations Update –October and November – (Simpson)

Simpson noted the PSPS during the intervening reporting period. Before and during that time, sites were refueled. Negotiations were conducted with fuel companies to

ensure priority delivery. Fuel was delivered at Mt. Tam for the site owner to ensure continuous operation and owner reimbursement to MERA. This matter will be corrected going forward.

Simpson noted work on spares is continuing, including acquisition of Astro TAC Receivers. Preventative maintenance was done at the Prime Site, including fresh batteries to deal with future PSPS events. This is intended to extend UPS battery life to coincide with Next Gen cutover. Talks are continuing with Sonoma County regarding the Bay Hill microwave link. Terms for Sonoma County take over of the link are underway and will be presented in the future.

Simpson said his report includes some of the issues addressed during PSPS, as well as some fire station generators not putting out clean power for MOSCAD equipment for station alerting. This equipment is sensitive to a clean power source. Some generators were outputting problematic power delivery affecting UPS with transfer. He is working with affected stations to get this addressed.

Kelly asked about UPS battery life to keep things running. Simpson responded 8 hours after other power is lost. These batteries have a five-year life span. The Prime Site building generator is also being reviewed for additional capacity, including bringing in outside generators. In response to Kelly, the Radio Shop continuously monitors site power and each site is separately alarmed. Van Doren asked how many stations had FSA problems. Simpson said three where UPS was not rebooting to the generator. Simpson is working directly with those stations. He noted these generators are not MERA owned but member station owned.

5) Other Information Items

None.

E. Open Time for Items Not on Agenda

None.

F. Adjournment

The meeting was adjourned at 5:23 p.m.

Respectfully submitted by:

Maureen Cassingham
MERA Executive Officer
and Secretary