

MARIN EMERGENCY RADIO AUTHORITY

c/o Town of Corte Madera
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GOVERNING BOARD

Minutes of February 26, 2020 Regular Meeting

DRAFT: 3/18/20

Call to Order and Introductions

With a quorum, the meeting was called to order by President Pearce on February 26, 2020, at 4:11 p.m. at the Novato Fire Protection District Administration Office - Heritage Conference Room, 95 Rowland Way, Novato, California, 94945. Self-introductions followed.

Governing Board Members & Alternates Present:

Town of Corte Madera	Todd Cusimano
City of Mill Valley	Jacqueline Graf-Reis (Alternate)
Town of Ross	Tom Gaffney
City of San Rafael	Glen McElderry, Robert Sinnott (Alternate)
County of Marin	Matthew Hymel, Dan Eilerman (Alternate)
Bolinas Fire Protection District	George Krakauer
Kentfield Fire Protection District	Ron Naso (Alternate)
Marin Municipal Water District	Don Wick (Alternate)
Marin Transit	Amy Van Doren
Novato Fire Protection District	Steve Metcho, L. J. Silverman (Alternate)
Southern Marin Fire Protection District	Cathryn Hilliard
Tiburon Fire Protection District	Richard Pearce
Central Marin Police Authority	Michael Norton

Governing Board Member Agencies Absent:

City of Belvedere
Town of Fairfax
City of Larkspur
City of Novato
Town of San Anselmo
City of Sausalito
Town of Tiburon
Inverness Public Utility District
Marin Community College District
Marinwood Community Services District
Ross Valley Fire Department
Stinson Beach Fire Protection District

Staff Present:

MERA Executive Officer
MERA Operations Officer
Recording Secretary

Maureen Cassingham
Ernest Klock
Lorena Barrera

Guests Present:

Federal Engineering
Marin County Public Works

Marin County Public Works
Marin County Public Works

David Mortimer
Betsy Swenerton, Capital Planning and
Projects Manager
Jason Wong, Capital Planning and Projects
Raul Rojas, Director

A. 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) Minutes from December 11, 2019 Governing Board Regular Meeting
- 2) Minutes from January 22, 2020 Governing Board Regular Meeting
- 3) Report No. 91 on Strategic Plan Implementation

M/S/P Cusimano/Gaffney to approve Consent Calendar Items 1 through 3 as presented.

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

B. Executive Officer's Report – (Cassingham)

- 1) Proposed Fourth Amendment to Next Generation Radio System Implementation Agreement Between the Marin Emergency Radio Authority and the County of Marin

Cassingham presented her report noting the three prior 3-month extensions of the MERA/County Next Gen Implementation Agreement, the last of which was approved by the Governing Board on December 11, 2019. Extensions were intended to permit the parties to reach mutual agreement on MERA's proposed revisions to the original Agreement. The Fourth Amendment permits more time for the scheduling of mediation between the parties.

Cusimano said this latest Amendment will permit more time for resolution of differences or a thoughtful transition. He added the parties may want to consider a 6-month extension to complete these processes. He said MERA has a good core

staff to provide direct oversight of Federal Engineering's (FE) Project Management Services. A formal transition of the FE Contract to MERA to permit direct reporting to MERA is being explored parallel with mediation. Attempts to schedule mediation before the current extension expires on March 31 have been unsuccessful due to scheduling conflicts.

Cusimano said Gary Ragghianti will serve as our Mediator and more suggested mediation dates will be forthcoming. Both sides are eager to get the process started. If we proceed with a thoughtful transition process, we may want to consider AECOM to assist in addition to their proposal for Custom Design Review (CDR) third-party review.

In response to Cusimano's suggested 6-month extension, Hymel said he supports another 3-month extension. The County, as a Member Agency, wants to do what is in the best interest of MERA and the Project. There may come a time when the County provides 90-day Notice to terminate its Project Implementation Services if this benefits the Project. The County will work to resolve differences but it may be more straightforward for MERA to take over the Project. If transition best serves the Project and the parties, he assured the County's cooperation to avoid further delays.

Pearce noted the mediation process was intended to resolve current issues between the parties and transition has been added by the County to these discussions. MERA didn't enter into mediation with interest in transition. MERA has tried to identify control issues to benefit the Project which has now moved into a transition discussion. He said MERA's representatives do not have authority to enter into transition discussions which is why this is being brought before the Board now. If transition comes out of mediation, it must have the Governing Board's approval.

Hymel said, as was noted in the December meeting, the County is in the best position with the best team to implement the Project. Nonetheless, the County will in good faith work toward resolution of current Agreement differences but did not want the Board to be surprised if those issues could not be resolved and the County puts in its Notice of Termination. The Notice would only be given in the best interests of the Project.

Van Doren requested clarification from Cusimano about the core Project team and its relationship with Federal Engineering. Cusimano said conversations started with Project challenges followed by discussions of Organizational Chart reporting relationships. Stepping back from the organization structure, he and Hymel brought to the Manager's Association Project concerns and how MERA operates structurally. Out of that discussion came Manager comments about, why FE as Project Manager, reports to the County and how the Project might benefit from a direct reporting relationship to MERA and the Governing Board.

Cusimano said exploration of how a change in FE reporting would work operationally and whether the parties could accept this change needs to proceed. This would require an FE Contract change and an assessment with the County on how the roles would be handled. He added the reporting changes could better set us up for success going forward with mediation. He noted this would benefit the strength of the Project team of Jeffries, Mortimer and Klock. Hymel said the County is amenable to having FE report directly to MERA.

M/S/P Cusimano/Naso to approve the Fourth Amendment to the Next Generation Radio System Implementation Agreement between MERA and the County extending the Agreement from April 1, 2020 to June 30, 2020.

AYES: All
NAYS: None
ABSTENTIONS: None
Motion carried

2) Report No. 65 on Next Gen System Project and Budget – (Jeffries)

Jeffries distributed the February 2020 Governing Board Project Update to members to take back to their organizations to inform them of the latest Project activities. He highlighted the status of the CDR process and Coastal Commission permitting. Outreach to the Bay Area Regional Interoperable Communications System Authority (BayRICS) has resulted in attention to potential conflicts in identifying radios across systems in a mutual aid event. This generated a new scheme for radio identification that will benefit Next Gen by completing this now and avoiding changes later. This will help dispatchers to immediately identify individual County codes and discipline of the radio talking. Jeffries noted the recent Point Reyes Light article on the Project.

3) Proposal from AECOM Technology Solutions for Public Safety Wireless Consulting Services – Next Gen Project Third-Party Customer Design Review

Cassingham presented the report on AECOM's proposal for third-party CDR review services. She said the Governing Board approved in concept a third-party review of Motorola's CDR documents on January 22 and it was agreed to reach out to AECOM for a proposal. She stressed accuracy of Design Documents is critical to successful Next Gen construction. She added AECOM performed the Marin County-wide System Study in 2010 that informed Next Gen. She encouraged members to review this extensive and detailed document noting it is posted on the MERA website.

Cassingham introduced Mike Soderman, Mark Hannah and Kevin Uhl representing AECOM who have joined this meeting via conference call to comment on and answer questions regarding their proposal. She noted the cost and schedule

proposed to perform these services along with the Master Agreement for Services and Non-Disclosure Agreement (NDA) which had been reviewed by her and General Counsel resulting in certain MERA-requested revisions. The NDA permits AECOM immediate access to Motorola CDR Documents upon Governing Board authorization. A separate NDA between AECOM and Motorola has already been executed.

Cassingham summarized AECOM's considerable background and experience with like communications system projects and with Motorola. She noted the proposed cost of their services is not-to-exceed \$192,792 to conduct a parallel review of Motorola's CDR Documents and a similar timeline for same, estimated at 13 weeks. Soderman said his team has worked closely with Cassingham to develop their comprehensive scope and proposal for independent third-party CDR Documents review. Uhl has taken the lead on proposal development on behalf of the AECOM team.

In response to Hilliard, Soderman confirmed Contract duration is 13 weeks to complete a thorough review. Gaffney asked about the Cost Proposal, which appears to be all hours. He asked if expenses such as travel were included. Soderman said an on-site kickoff meeting is planned, along with site surveys, which are included in the cost. Soderman asked his Team if this was time and expense. He confirmed it was based on time and materials. Two consultants will participate in the kick-off. In response to Gaffney, he confirmed one site visit was included. In response to Hilliard, Soderman said AECOM's administrative costs were also included in their hourly rates.

Gaffney inquired if AECOM had worked with FE. Uhl said FE was a competitor but AECOM has worked with their Engineers as employees as AECOM's engineers have worked for FE. However, they have not done any joint projects with FE. Hymel asked how AECOM will work with FE to complete timely review of CDR Documents to stay on schedule and keep the Project moving as quickly as possible.

Soderman said AECOM's work will commence as soon as possible, scheduling a kickoff with stakeholders, assessing the issues and reviewing Design Documents. AECOM has done this many times for similar Motorola projects. They will need to review the RFP and Motorola Contract. The RFP is what the client intended to have and the Contract is what we are getting. CDRs would be reviewed against the Contract and client needs. They would independently identify what are very technical issues and any related pitfalls.

Soderman noted FE has a head start with their CDR review, which means they might be done sooner than AECOM. Van Doren noted 5 questions including how MERA would control the status of deliverables from FE and AECOM to assure the efficiency and value needed. She asked who will manage and coordinate the moving parts of this. In response to Van Doren, Pearce said the process includes

getting the most accurate documents from Motorola for Project Oversight Committee (POC) review and recommendation to the Governing Board. Given the technical limitations of Committee member review, another set of eyes in addition to Mortimer, Klock and Jeffries is critical to minimize Motorola Design-related change orders and delays. He added there can be no CDR sign-off without a County Construction Schedule.

Jeffries said AECOM would get CDR documents from MERA to provide their analysis to staff, the Committee, and the Governing Board to decide which comments go back to Motorola on MERA's behalf. Motorola initially expressed concerns about delays caused by this process, which have mostly been assuaged. He stressed with Motorola the preceding delays and increased costs arising from the number of Change Orders. CDR recommendations from FE and AECOM should boost Board confidence in the approval process. Any red flags from AECOM will support money well-spent for their services. Motorola plans to abide by the approved CDR package and any variance will likely result in change orders.

Jeffries said on February 14 Motorola asserted the complete CDR package had been delivered. MERA and FE disagree with this assertion. He added AECOM will report directly to MERA with its assessment, which should better inform CDR approval. He does not consider a 12-13 weeks AECOM schedule as a delay given where we are with Motorola documents. With this additional review at the proposed cost, this could be a wise investment in a better CDR package – possibly allowing us to identify issues earlier on and not later. Pearce added his concern about the quality of Motorola documents to date.

Gaffney questioned inclusion of expenses in the proposal based on his calculations. He asked Soderman if they were included in AECOM's hourly rates. Uhl said the intention was to present time and expenses in a not-to-exceed amount for MERA budgeting purposes. AECOM will invoice monthly based on hours expended. Van Doren noted the proposal gives cost latitude for changes in scope. Pearce said any scope changes would require MERA approval.

Jeffries asked AECOM if their cost would include their one-week travel expenses. Soderman said travel was included in the hourly rate based on estimated air and hotel costs. Hymel noted a minor cost calculation variance in Column 1 of \$160. Gaffney said estimated hours reflected minor travel expense which Soderman confirmed as expenses spread over level of effort. In response to Gaffney, Jeffries said the additional AECOM expense can be funded as a Project cost from Unappropriated Reserve or Contingency.

Hymel said the County was surprised in January that there had been no discussions about a third party review. They asked how this could be done in a way to not delay the Project Schedule. He is not against AECOM and MERA has a right to engage them. Given a potential transition from the County, this is a good resource for

MERA to have. In the past, the County has been criticized for not flagging potential Project delays. MERA is asking for a decision without prior discussion with their Implementation about how this will work without increasing Project delays. He feels this is an unknown Schedule impact which he can't support. The County is concerned and disappointed there was no consultation with them about this consideration and potential Project impacts.

Pearce said there have been so many prior Project delays with the SEIR process one-year delay and other unplanned Schedule impacts. This is an effort to minimize more delays that could come from enhanced CDR review and oversight, which is foundational to construction. The intent with AECOM is to avoid future delays. Hymel said the County would have liked to strategize this with MERA to work together. Jeffries said AECOM's possible engagement was discussed at the last Motorola meeting as a parallel review. If AECOM's proposal is approved, they can begin CDR review right away. At best case, POC and Governing Board meetings likely won't be scheduled until late-April assuming Motorola can produce the whole package.

In response to Hymel, Jeffries clarified that AECOM's review is not an iterative process with FE. AECOM will tell MERA this is what they see, leaving it up to MERA as to how to proceed. He added this process had all been discussed with the County and Motorola. Cusimano said the task ahead is for all to work together and stay on track. He referred to the December Board meeting wherein the County suggested it was not open to Implementation Agreement changes and they would not work outside the Contract term. Today, the County is suggesting a 90-day Notice to Terminate.

Cusimano said in MERA's best interests and the best interest of the Project, he supports moving forward with the AECOM Agreement. He recognizes the potential redundancy between FE and AECOM's services but it is important for AECOM to help keep us on track at this critical phase of the Project. At this point, it is not about any MERA member, but MERA and the Next Gen Project.

M/S/P Cusimano/Hilliard to approve the Proposal from AECOM Technology Solutions for Public Safety Wireless Consulting Services – Next Gen Project Third - Party Customer Design Review and related Agreements as presented.

AYES: Cortez Madera, Mill Valley, Ross, San Rafael, Bolinas,
Kentfield, MMWD, Marin Transit, Novato FPD,
So Marin FPD, Tiburon FPD and Central Marin PA
NAYS: County of Marin
ABSTENTIONS: None
Motion carried

4) Other Information Items

Barrera, as MERA's Designated Filing Officer, announced the April 1 Form 700 filing deadline. She thanked those who had filed and noted another email reminder would be forthcoming.

C. Operations Reports – (Klock)

1) Schedule Update – Next Gen Project

Klock, in light of unanticipated AECOM delays, said he could not speak to the Schedule. The Coastal Permitting process includes a public hearing on February 27. Construction Documents for the sites are extremely close. MERA can bid sites in the very near future which can be done ahead of CDR review but is not recommended. The next critical path task to design and construction include finalization of site leases and getting permission to enter sites.

In response to Van Doren, Klock noted the Coastal Permitting local and State approvals, along with power applications and other permits, none of which are as critical path as the 3 sites needing Coastal permits, plus any appeals processes which could add time. In response to Pearce, the February 27 local Coastal hearing is administered by the County. Thereafter, the permitting goes to the State Coastal Commission. If approved locally, these permits are typically approved at the State level.

Van Doren asked what portion of the CDR is in complete draft form. Klock said his January 22, 2020 Staff Report on CDR included 62 items – 28 were outstanding on that date and 20 documents were received from Motorola on February 15, which are under review. The 8 outstanding include the Project Schedule, which is still under review. Motorola said 7 documents are not needed by MERA. They claim, although required in the Contract, these documents are not typically provided at the CDR stage or are not necessary at all. There is a Motorola milestone payment with CDR and partial payment may be a consideration based on what has been submitted. Some submittals have not been accepted. Mortimer is still reviewing 7 documents in dispute.

2) NERA System Operations Update –January

Klock noted the December and January Usage Reports. He cited issues with site enclosures at Big Rock along with an air conditioning failure. These matters are either addressed with site owners or by County Building Maintenance. December busies are at 2 seconds with the Annual at 1.54 busy seconds. The January Report will likely mirror the December report, which will be updated at the next meeting. Pearce asked if the System was functioning satisfactorily and whether we had sufficient spare parts to support it. Klock said the System is performing well and

spares have been acquired from Orange County, which is decommissioning its system.

3) Other Information Items

None.

D. Open Time for Items Not on Agenda

None.

E. Adjournment

The meeting was adjourned at 5:00 p.m.

Respectfully submitted by:

Maureen Cassingham
MERA Executive Officer
and Secretary