

MARIN EMERGENCY RADIO AUTHORITY

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DRAFT: 7/13/20

Measure A Citizens Oversight Committee

Minutes of June 17, 2020 Regular Meeting

Call to Order

The telephonic meeting was called to order by Chair Herrerias at 4:00 p.m. on June 17, 2020. Roll call followed:

Committee Members Present:

District #1	Elizabeth Greenberg
District #2	Bill Levinson
District #3	Chuck Reite
District #4	Larry Luckham
District #5	Paul Herrerias

Staff Present:

MERA Executive Officer	Maureen Cassingham
MERA Deputy Executive Officer – Next Gen Project	Dave Jeffries

Guests:

None

A. Minutes of December 18, 2019 Citizens Oversight Committee Regular Meeting

M/S/P Levinson/Greenberg to approve the minutes as presented. Roll call followed.

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

B. Report on Status of Measure A Low Income Senior Exemptions – FY15-16 To Date

Cassingham presented the Report, noting FY20-21 applications had increased 52% over prior year. She added each year Jeffries issues three media advisories regarding the application process, updated income requirements and June 1 filing deadline. This

information is also posted on MERA's website. The application is an annual process which provides for changes in age and income eligibility.

Greenberg asked about her elderly neighbor who primarily speaks French and does not use the internet. She was not aware an exemption application was required annually but had applied in the past. She continues to be income and age eligible. She just wanted staff to be aware some people are not receiving the application information.

Jeffries said we cannot assure the media will publish the advisory information. In prior years, staff did considerable outreach to numerous senior organizations to increase awareness, which had little impact. Tax bills provide phone numbers for each line item for taxpayer questions, but the challenge remains in finding the right public information outlets to get the word out.

Greenberg asked about Measure A tax bill inserts. Cassingham said the County does not provide for this process. Jeffries added that, if permitted, there would probably be a significant cost. Cassingham said her neighbor can always apply again next year, as the exemption window has not closed due to missing the FY20-21 deadline.

C. Update on Status of Next Gen System Project and Budget (Jeffries)

Jeffries recapped his report, noting no additional Cost Change Orders since the Committee's last meeting. Change Order #12 for the Firefighters Assistance Grant, covers upgrading all Fire radios in Marin to tri-band. This includes portables and mobiles. VHF hi-band will be loaded in the radios, which enhances mutual aid communications. Increased cost of C.O. #12 is covered by a FEMA Grant, which includes radio chargers. He said there may be other upcoming No-Cost Change Orders associated with personnel changes.

Jeffries provided a CEQA update, noting we passed the appeal period which followed SEIR Certification with no challenges. Coastal Commission permitting has also been completed and appeal periods concluded with no challenges. We are working with the Marin Agricultural Land Trust (MALT) and have received an extension at Tomales and are working to secure an easement at Coyote Peak.

Jeffries recapped the engagement of AECOM to perform a third-party review of Motorola's Customer Design documents. AECOM performed an earlier Marin County study of Next Gen System options. There are 64 design documents comprising a 1,000+ pages, which AECOM analyzed and reported on. The MERA Governing Board accepted their report and directed staff to work with Motorola to address the issues raised.

Jeffries identified 225 AECOM comments to be reviewed by the MERA Team, which were reduced to 135 to be shared with Motorola. Motorola has already agreed to correct 46 of those, leaving the remaining items for upcoming meetings. The Project Schedule document is awaiting MERA's Construction Schedule. With the transition of the Project

from the County to MERA, staff has recommended that MERA contract with AECOM to provide Project and Construction Management Services and finalize the Construction Schedule.

Jeffries reviewed the updated Project Budget, noting radio Change Orders had been previously accounted for under the Vendor Contract line item instead of the Vendor Radios line item. Paid expenditures have also been updated. Herrerias asked if this affected the Project Total. Jeffries confirmed this did not affect the Total or Contingencies.

Jeffries further described the Project Transition from the County to MERA, which was triggered by the County's March 11 Next Gen Implementation Agreement Termination Notice due to resignation of the County's Assistant DPW Director assigned to the Project. An extension was agreed to by the parties through June 30, 2020 to facilitate transition to MERA. The Notice necessitated a MERA reorganization to manage the Project. He referred to and discussed the structure depicted in the attachment to his report, over which he will provide general oversight. AECOM has been engaged to provide a dedicated Program Manager and two full-time Construction Managers. RGS will provide a part-time Implementation Coordinator, with Marin County public safety experience, to work on non-Motorola Project tasks. Federal Engineering will continue to provide a full-time Radio System Project Manager.

Jeffries said County Capital Projects and Real Estate staff will continue their support of bid packages development and site leasing through June 30. The Construction Management structure will sunset with completion of site construction leading to Motorola's installation of Next Gen equipment. Levinson asked about the FTE for each position and who the incumbents are. Jeffries confirmed he is the part-time Deputy Executive Officer for the Next Gen Project. The AECOM Next Gen Program Manager Mark Chase, will be part-time and coordinate the Radio System Manager, Construction Project Manager and Implementation Coordinator.

Jeffries said David Mortimer from Federal Engineering will continue full-time in managing the Motorola Contract. He has been with the Project for several years. The AECOM Construction Manager, who is based in Marin, will be full-time and will be responsible for the bid packages, bid process, award of bids and contractor oversight. The part-time Implementation Coordinator from Regional Government Services has not been selected. This position's average weekly hours will be capped at 19 and will continue until the end of the Project.

Levinson asked if the new structure was budgeted. Jeffries said the County Project Implementation line item of \$2M has a balance of around \$1M. AECOM costs will be more, however, the original County Budget for this was likely going to increase anyway due to Schedule delays. The AECOM Contract was approved by the Governing Board on June 10. Cassingham added this contract will result in an additional Budget impact of \$1.4M and confirmed this was Budget Line Item 4. Levinson said this was never

mentioned before and was curious why the County decided to terminate. Jeffries said their decision to terminate resulted in MERA's actions to seek replacement services before June 30 to avoid Project delays.

Cassingham said given MERA and the County's experience with AECOM, they were a perfect fit to step in. They are now engaged to finish the Project. Levinson asked if this was a cost-saving move for the County to address internal costs. Cassingham said she did not know. In response to Reite, Cassingham said she believed that this was a Board of Supervisors decision. In response to Herrerias, Jeffries said the Termination Notice came from the County Administrator and the AECOM Contract was a MERA Governing Board response.

Cassingham clarified for Herrerias the total cost of the AECOM contract was \$2.4M, which is a \$1.4M increase to the Project Budget. Herrerias asked if the County had continued its Contract, this would have saved the Project \$1.4M. Cassingham and Jeffries concurred that remains an unknown. Herrerias asked if other proposals were solicited. Cassingham responded MERA is not required to competitively bid professional services. Given AECOM's experience with the County and, most recently MERA's experience with their work reviewing Motorola's Customer Design documents, they were approached as the most logical firm. The Governing Board was satisfied with their Scope of Service, depth of bench and availability to step in. Jeffries added that the shortage of time between the Notice and June 30 was another contributing factor.

Luckham said since the Committee is the watchdog for the taxpaying public, the County should be requested to explain their Termination Notice which is costing the taxpayers an additional \$1.4M. Cassingham noted the County had resignations and retirements in Public Works that affected their ability to continue Project Implementation. The Committee was advised that the County employee responsible for the Project also supervised five other Public Works Divisions, so his resignation had considerable impact. Luckham said while these changes may have had an effect, the taxpayers will have to come up with another \$1.4M due to the County's decision.

Levinson asked if at the end of the Project we are \$1.4M short, would the County make up the difference. Cassingham said AECOM's services could very well save the Project money by virtue of their depth of expertise, staffing and commitment to minimizing future Change Orders and reducing the Schedule. Greenberg asked if AECOM was better prepared than the County to deliver the Project. Cassingham responded this Project will be AECOM's sole focus with on-point expertise and depth of staffing. She added the County has many divisions to oversee and given the extent and magnitude to date of Project Change Orders and delays, this transition may well work to the benefit of the Project.

Jeffries added that the AECOM Project Team will also benefit from the 135 CDR concerns identified by the AECOM CDR Team. Clearly these CDR items should have been caught sooner, much like the previous expensive Change Orders. Now that these

items are being corrected, approval of CDR should result in better informed, less costly construction. This initial flood of Change Orders resulted in AECOM's engagement to get CDR as accurate as possible to minimize future COs and delays. Now Motorola will have to deal with AECOM managing the Project Construction.

Luckham said AECOM's savings are speculative and right now we are looking at an additional \$1.4M in Project costs. He said the County owes MERA an explanation now or at the end of the Project. Greenberg emphasized the importance of the County explaining the transition and commitment to making up the \$1.4M cost overrun if that becomes the case. Cassingham said she can communicate the Committee's concerns to the Governing Board.

Reite spoke to the press's past negative articles on the Project, which we should be sensitive to. In response to Levinson, Jeffries clarified AECOM will be reporting to him and he, in turn, reports to Cassingham. Chase, with AECOM, will be responsible for directing the other Project Managers. In response to Herrerias, Cassingham will distribute a copy of the County's Termination Notice to the Committee.

Herrerias noted Luckham's motion to request the County's explanation of the Termination Notice resulting in the Project increase of \$1.4M and requested a second. Reite seconded. Levinson moved to amend the motion to add greater specificity.

Cassingham asked for clarification on who was being requested. Herrerias said the request was to the County. Cassingham said this request was not permissible under the Committee's Bylaws and said that communication should be to the Governing Board. Luckham moved to request the MERA Governing Board request a written explanation from the County for its Notice of Termination. Levinson asked to amend the motion to add that the County should also be asked by the Governing Board to address the long-term fiscal impacts of its decision on the Project. Greenberg seconded the amendment. Herrerias asked for discussion of whether the County can assess fiscal impact of its decision and suggested it may be better to ask what the savings are from this action.

Levinson said the County needs to explain why they took this action and what their understanding is of the impacts or benefits there are on the Project. He does not want to be asked to explain later if the Project is in overrun and we haven't fulfilled its mission. Jeffries added the County is MERA's largest member at the same time they are a Contractor to MERA. Like other contractors, they can terminate per contract provisions and likely not held liable for increased Project costs.

Luckham asked what the County's Contract allows regarding termination. Cassingham said the Contract would have terminated on its own June 30, 2020. As part of the Termination Notice, the County communicated it would not be renewing after June 30. Greenberg said the County not renewing would not need to provide an explanation as it is under no obligation to extend. Herrerias said it would still be okay to request an explanation as this would fulfill our obligation to the taxpayers.

Luckham asked how MERA entered into a contract that expires before Project completion. Cassingham said the Agreement is extended by mutual agreement of the parties after June 30, 2019. As a contractor himself, Luckham said he only signed contracts that obligated the other party to provide what was promised without the option to walk away. If they did, the matter was taken to court. Cassingham said it would not be in MERA's best interests to pursue a member agency in court. Luckham said, nonetheless, MERA finds itself not even halfway through the Project with site construction and Motorola equipment installation still ahead, and a major contractor has walked away.

Luckham asked about the FE and Motorola Contracts and their required delivery of finished products. He said he is astounded a key player can just walk away on a date certain, irrespective of whether the services have been fully performed. With regard to his original motion, he said requesting the County's explanation for termination is no longer necessary in that their contract ended on June 30. Greenberg said a better question of the County may be why they chose not to renew. If the County did not have the personnel to successfully complete the Project, it is understandable they would not renew because they could not fulfill it.

Herrerias felt the intent of the question was to get a response for inclusion in the minutes. This would assure the Oversight Committee is fulfilling its obligations. Cassingham said it is the MERA Governing Board's responsibility to successfully complete the Next Gen Project. Herrerias agreed any motion should be directed to the Governing Board.

M/S/P Luckham/Reite to (1) Request the MERA Governing Board to provide the Committee with an understanding as to why a critical contractor was permitted annual renewals versus being held to a performance-based contract; and (2) Obtain a written explanation from the County as to why they chose not to renew the Implementation Agreement.

Roll call followed.

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

In response to Herrerias on the Project Budget, Cassingham confirmed MERA is nearing completion of Motorola Contract Milestone #2, which is a 10% progress payment that will be paid upon Governing Board approval of Customer Design Review. Jeffries added there remains a chance this will be completed in Q3 2020. Milestone #3, which is the shipment of Fixed Network Equipment, requires MERA inspection at the warehouse. This is dependent on when the equipment needs to be here, post site construction completion. In response to Herrerias, Jeffries said estimated Milestone dates are dependent on the final Project Schedule, which is dependent on AECOM finalizing the

Construction Schedule for insertion into the Project Schedule. Jeffries added the Construction Schedule should be available in 6 to 8 weeks. Cassingham noted AECOM has indicated construction could begin as early as October.

D. Review of Funds 70038 and 70039 – Next Gen Project Revenues and Expenditures
FY19-20 December 12, 2019, through June 9, 2020

Cassingham reviewed the Balance Sheets and P&L Details for both Funds, noting there have been no large or extraordinary expenditures other than AECOM CDR expenses during this period. The AECOM CDR contract was \$192K. The detail notes regular expenses from the usual categories of expenditures like Contract and Legal Services, Financial and Admin Services and Website. Fund Balances have not changed significantly since the prior period. Cassingham noted future reporting will reflect AECOM's Project Services beginning July 1.

Herrerias noted considerable Legal Expenses early in the Fiscal Year, which Cassingham said were associated with work performed on the SEIR. Subsequent lesser legal costs reflect review of Project Contracts, Site Licenses and Leases and other Project related legal services. Cassingham confirmed the Committee's review of revenues and expenditures required no further action. Herrerias added, going forward the Committee will likely be reviewing increased expenditures to complete the Project and its review will address the fiscal responsibility of them.

E. Other Informational Items
None.

F. Open Time for Items Not on Agenda

Herrerias asked about in-person future meetings. Cassingham noted MERA will be guided by County Health Department COVID updates and the Governor's Order relaxing Brown Act meeting requirements. If and when permitted, MCC Room 315 will be used for future meetings. Levinson said given some Committee Members' high-risk category, he would only feel better in a larger meeting space. Cassingham said the Bylaws require Committee Meetings at MCC but larger meeting spaces can be identified at this location. Herrerias asked Cassingham to further research the use of Zoom. She confirmed the Governing Board-adopted use of telephonic meeting protocol, related high-quality audio, zero cost and security features of same. Herrerias noted the Committee's preference for video.

G. Adjournment

The meeting was adjourned at 5:14 p.m.

Respectfully submitted by:

Maureen Cassingham
MERA Executive Officer
and Secretary