

MINUTES OF THE BOARD OF DIRECTORS
ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

REGULAR MEETING

January 21, 2015

The following were present:

DIRECTORS: SANDY FIGUERS
JOHN GRECI
JIM MCGRAIL
SARAH PALMER
DICK QUIGLEY
ANGELA RAMIREZ HOLMES
BILL STEVENS

DIRECTORS ABSENT: NONE

ZONE 7 STAFF: JILL DUERIG, GENERAL MANAGER
KURT ARENDS, ASSISTANT GENERAL MANAGER, ENGINEERING
MATT KATEN, PRINCIPAL ENGINEER, GROUNDWATER
JUDY RECTOR, BOARD SECRETARY

COUNSEL: DAVID ALADJEM, DOWNEY BRAND

Item 1 - Call Meeting to Order

President Greci called the meeting to order at 7:00 p.m.

Item 2 - Pledge of Allegiance

Item 3 - Citizens Forum - none

Item 4 - Minutes of the Regular Meeting of December 17, 2014

Directors Quigley moved to approve the minutes of December 17, 2014, and Director Palmer seconded the motion. The minutes were approved by a voice vote of 7-0.

Item 5 - Consent Calendar

Director Ramirez Holmes asked that Item 5(a) be pulled for discussion.

Director Palmer asked that Items 5(b) and 5(f) be pulled for questions.

Item 5(a) Contract Change Order for PPWTP Centrifuge Equipment System Rental Service

Director Ramirez Holmes said that at the December 2012 meeting when the Board first considered the item and discussed the expense for the rentals, staff was working with DWR for additional drying beds

for Patterson Pass Water Treatment Plant (PPWTP) and an interim contract was needed until the beds were set up at PPWTP, but the long-term plan was not discussed. Director Ramirez Holmes asked Kurt Arends, Assistant General Manager, Engineering, for an update. Mr. Arends confirmed that the actual design of the drying beds is in the CIP a couple of years away so the project was deferred due to other priorities and limited funds and resources. Mr. Arends explained that the issue in December 2012 was acquiring the property but to design and construct the drying beds is a separate capital project and there is not a critical need for them. Ultimately they will be part of the expansion plan for PPWTP.

Director Ramirez Holmes said that in 2012, Director Quigley asked for the components of the costs for the centrifuge rental, shipping and disposal cost of the sludge. He was told that the new financial software, New World, could gather those numbers. Mr. Arends said that the agenda item is for a single contract and is not broken down and paid on a unit volume basis depending upon the amount of sludge produced. Ms. Duerig added that Zone 7 now has a dump truck and staff moves the sludge. All three components were discussed over the course of the dump truck discussions and the update to the landfill contract discussions.

Director Ramirez Holmes then asked the reason why the cost is \$78,000 over the contract amount. Mr. Arends said there was a delay before Mr. Needham billed Zone 7 but staff will restructure the payments for next year for more timely submissions. There was additional discussion among the Directors regarding the increased use of chemicals resulting in more sludge production and poor water quality through the South Bay Aqueduct due to the drought which also contributed to the increased cost of sludge management.

Director Quigley moved to approve Item 5(a) and Director Stevens seconded the motion. The item passed by a 7-0 roll call vote.

Resolution No. 15-36 Authorized change orders for CY 2014 for additional centrifuge equipment rental services with KNE. (Item 5a)

Item 5(b) Amendment to Arroyo Mocho Access Easement at Oaks Business Park, Livermore

Director Palmer pulled Item 5(b) because she had a question regarding the map attached to the agenda item and the relocated easement. She asked if the easement was to be added to the new easement or would it be replaced? Mr. Arends answered the questions she had on the map and easements.

Director Stevens moved to approve Item 5(b) and Director Palmer seconded the motion. The item passed by a 7-0 voice vote.

Resolution No. 15-37 Authorized an Amendment to the Grant of Easement with Livermore Oaks Joint Venture LLC for property in Oaks Business Park. (Item 5c).

Director Ramirez Holmes moved to approve Items 5(c), 5(d) and 5(e) and Director Palmer seconded the motion. The items were passed by 7-0 voice vote.

Item 5(c) Accept Easement from City of Livermore for an Underground Electric Line

Resolution No. 15-38 Authorized execution of the electric line easement from the City of Livermore. (Item 5c)

Item 5(d) Easement Amendments for Cross Valley Pipeline with CarMax Auto Superstores California and Stoneridge Chrysler Jeep Dodge, Pleasanton

Resolution No. 15-39 Authorized executing an Easement Amendment with CarMax Auto Superstores California and Stoneridge Chrysler Jeep Dodge. (Item 5d)

Item 5(e) Cost Sharing Agreement for Invasive Mussel Inspection Program at Lake Del Valle

Resolution No. 15-40 Authorized Zone 7's share to continue the Quagga and Zebra Mussel prevention program for Lake Del Valle in 2015 and subsequent years. (Item 5e)

Item 5(f) Professional Services Agreement with West Yost Associates

Director Palmer said she had a question on the bidding procedure for the Transmission System Planning Update and the outcome if Zone 7 was unable to complete a contract with West Yost and Associates. Ms. Duerig said that sometimes our standard terms, conditions or insurance requirements result in not being able to reach an agreement. For a professional services contract, the number two bidder is not based just on the dollar amount of the quote; it is also based on the qualifications. Zone 7 is hoping to reach an agreement with West Yost because it has been determined that they are the most qualified but there have been concerns raised by them on standard terms and conditions and, if Zone 7 cannot reach agreement, staff needs board approval to move forward with the project.

Director Stevens and Ms. Duerig discussed issues with the County over contract language and insurance requirements. General Counsel David Aladjem has been working with the County to resolve some of these issues.

Director Quigley moved to approve Item 5(a) and Director Palmer seconded the motion. The item passed by a 7-0 roll call vote.

Resolution No. 15-41 Authorized a contract with West Yost Associates for the Transmission System Planning Update. (Item 5f)

Item 6 - Staffing Update

Caroline Abram was nominated as the November 2014 Employee of the Month. Ms. Abram works in Operations at Del Valle Water Treatment Plant and is credited for suggesting addition of a windsock at the powdered activated carbon (PAC) feed stations so that operators can determine wind direction and mitigate the potential for getting PAC material blowing everywhere. The board applauded Ms. Abram in absentia.

Item 7 – Contract with Morrison & Associates, Inc., for Outreach Program Support Services

Ms. Duerig said the biggest component of the Outreach Program Support Services is the schools program which is incredibly successful and positive comments are heard from the community and retailers. This program has grown over the years and a high school component was added this year as a separate contract but staff now wants to fold it into the main contract. Staff is happy with their performance and recommends that the Board approve the contract.

The directors commented on the compliments they have heard on the Outreach Program. Director Ramirez Holmes asked for a list of schools where presentations were held. Also, with the increase in presentations from 354 in 2013-14 to 400 in 2014-15, is that number meeting the demand of classrooms who want the presentation? Mr. Morrison said there are about 30 classrooms on the waiting list that they have not committed to because they want to make sure they can accommodate them within their budget. The program is getting more popular every year. Director Ramirez Holmes inquired about what could be done in terms of the contract to include those on the waiting list. She said she would like to see an increase for next year and also to have a workshop so the board, community members and other school faculty can attend and see the presentations. She thought it was a worthwhile investment for the conservation effort especially with the interest in water due to the drought.

President Greci said it would be difficult to have a workshop because the presentations are geared to the grade level of the students. Ms. Duerig suggested that the resolution be modified to say “in an amount not to exceed \$232,000 which includes a 10% (\$21,000) contingency.” That gives Zone 7 flexibility if there is another high demand for presentations. If requests exceed the budget, the contract can be amended. Director McGrail noted that he is in favor of that idea. Director Ramirez Holmes suggested a sampling of the fourth grade presentation, the state standard, and the high school program. Ms. Duerig suggested that the information be shared at a board meeting so it is open to the public.

Director Stevens moved to approve the amended resolution for Item 7 and Director Palmer seconded the motion. The item passed by a 7-0 roll call vote.

Resolution No. 15-42	Authorized a one-year professional services contract with Morrison & Associates, Inc.
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Item 8 – First Reading of Proposed Zone 7 Well Ordinance

Matt Katen, Principal Engineer, Groundwater, gave a brief background on the draft ordinance and a quick update since it was presented to the Board in October. The draft ordinance provides details on well construction, destruction and enforcement actions, additional groundwater protection in special requirement areas, provides Zone 7 well and boring permit fees independent of the County’s permit fee schedule and strengthens the Agency’s control over the groundwater basin.

Based on comments received from the public and committee members at the Water Resources Committee meeting in November, the ordinance was revised to include the recommended fee schedule. The proposed permit fee schedule was revised to reduce the Supply Well Destruction Permit Fee by \$200 from \$700 to \$500, and the Monitoring Well Destruction Permit Fee by \$100 from \$600 to \$500.

The new fee amounts are close to the average charged by the ten Northern California agencies that were surveyed. President Greci commented that this provides good protection for Zone 7’s groundwater basin which is the number one goal of this Ordinance. When wells are not installed correctly or destroyed properly, contamination of the groundwater basin can occur. It is important that Zone 7 have control over the groundwater basin independent of the County even if the Ordinance is similar to theirs.

Director Figuers said the Ordinance had undergone several revisions and has improved but he found contradictions in it which he noted and Mr. Katen responded to each of his observations.

Director Ramirez Holmes asked about the appeals section in Section 9 and if there is a process if the Agency designates an area as a special requirements area. Ms. Duerig said in the wine areas, the concerns are in the Nutrient Management Plan. When both the Ordinance and the Nutrient Management Plan were brought to the Board together the last time, there was a lot of confusion and overlap.

Director Ramirez Holmes asked for an example of a special appeal. Ms. Duerig said most appeals come forward when the Agency has identified an abandoned well and sent the property owner a letter asking that the well be destroyed. If the property owner does not want to destroy the abandoned well, there is some negotiation and if resolution is not reached, then there is an appeal process.

Mr. Arends summarized the discussion with the County on the Well ordinance. In October Zone 7 received a letter from the County expressing concerns about Zone 7's proposed Well Ordinance. Zone 7 staff met with County Public Works staff about those concerns and the County proposed that they were going to adopt an updated County Ordinance (which has not been updated since 1973) and incorporate the changes proposed by Zone 7. Public Works staff later decided to simply amend the County Ordinance with a jurisdictional section. If Zone 7 adopted its own ordinance, then the County ordinance no longer applies within that area. The concern by the County was having duplicative ordinances and overlapping areas. The County staff was going to the Board of Supervisors with that amendment; however, because it was for Zone 7, they felt Zone 7 should present it to the Board of Supervisors. A Board of Supervisors item with a provision in the County ordinance that Zone 7 adopt its own ordinance was sent to the Board of Supervisors from Zone 7 but it was then determined that the item needed to go to the Transportation/Planning Committee. Now county staff is again proposing to amend the County ordinance with the provisions Zone 7 wanted and Zone 7 would continue to operate under the County ordinance. The information was discussed at the January Water Resources Committee meeting and it was decided to bring forward the first reading of the ordinance.

Director Ramirez Holmes asked if the County said that if both are in effect, would it create a problem where people are paying both Zone 7 and the County? Mr. Arends clarified that Zone 7 administers the ordinance within Zone 7's service area so if someone is putting in a well in our area, they come to Zone 7 for a permit. We would collect only the Zone 7 fee if needed, not one for the County. In response to her question about two ordinances overlapping, Mr. Aladjem said he and County Counsel agree that there are different ways to move forward and there is general agreement that however we do this should be seamless and not have contradictory requirements. The way County Counsel first put forward the ordinance was if Zone 7's board were to adopt an ordinance, Zone 7's ordinance would apply within Zone 7 and this is the simplest solution. County Counsel wants to get direction from their board at the County Transportation/Planning Committee meeting and then sit down and talk.

Director Ramirez Holmes expressed her concern about moving forward adopting the Ordinance when things have not been "ironed out" with the County. Mr. Aladjem said the process to adopt an ordinance is lengthy and we are only at the very beginning. The first thing to do is have the first reading. There needs to be a publication of the summary of what the ordinance does. Then there is a second reading in February or later so there is plenty of time to have a discussion at the staff level and make sure of all of the work the County has done or wants to do and all the work Zone 7 has done or wants to do is coordinated and then the Board decides when and how to adopt the ordinance. The County Board of Supervisors goes through the same process and after they are coordinated, we would move to the adoption of the ordinance and the completion of the process. When Director Ramirez Holmes asked if it was going to the Transportation/Planning Committee on February 2 but the date keeps changing.

Mr. Aladjem said the County has general governmental authority in all areas of the County but AB1125 gives Zone 7 authority to adopt ordinances using exactly the same process the County uses for matters than concern only Zone 7. The types of well requirements that Zone 7 would have whether it is the areas of special requirements or other areas within Zone 7 would not apply County-wide but they are issues where we want to make sure that special requirements are met. It is his understanding that County staff generally concur with all of those but AB 1125 allows us to adopt special requirements for Zone 7 through the ordinance process so that it is legally binding and one of the options on the table. Mr. Aladjem and the County's Counsel both see a number of different ways to go forward legally within both the County and Zone 7's authority. If there was a more stringent ordinance locally rather than a broader, County-wide general ordinance, or an overlapping ordinance, the more stringent of the two ordinances would be required in that local area. He gave an example that if the County required sealing down to 10 feet and Zone 7 said 20 feet, that would be a requirement within Zone 7. He said this is a common practice with overlapping jurisdictions and usually does not create any problems.

Director Ramirez Holmes said she still has a concern whether or not we are able to do something in the interim and where does that leave the people applying for a permit while discussions between the County and Zone 7 continue? Her concern is that we are opening up legal challenges for Zone 7 if we passed an ordinance. Mr. Aladjem said that once the ordinance is adopted by the Zone 7 Board of Directors, it would apply within a geographic scope of Zone 7 and the Zone 7 ordinance will be more up-to-date and more stringent so if someone wants to drill a well within Zone 7, our ordinance would apply as the more stringent of the two.

Ms. Duerig added that the Water Resources Committee did discuss this item and asked the Committee members to add any thoughts they had. Director Stevens said this is a fiscally-sound and good idea to protect our groundwater basin and collect fees and has nothing to do with separation from the County. Mr. Aladjem said that the ordinances can be put together so they do not trigger the subject of Zone 7's separation from the County. This is just an ordinance that updates the requirements within Alameda County and Zone 7 that is going to protect the public's interest in the groundwater basin. Director Palmer said it is crucial to protect our groundwater and the groundwater basin and that is what helps and protects the people of this valley. Abandoned wells are an important issue. Director Figuers stated that in the original ordinance there was a map showing the Zone 7 service area and he asked if one could be included with this ordinance? Ms. Duerig replied that generally ordinances do not have maps but it could be done. He also asked if the permit form had been written? Mr. Katen said there is an existing permit form but there is always the possibility of updating it.

Public Comment

Randy Werner, City of Livermore, asked if there are substantial changes between the first reading and the second reading, do you have to have another first reading or just the second reading? Mr. Aladjem said it depends upon the nature of the changes because if they are minor, they would go to the second reading. If they are fundamental changes as a matter of proceeding and informing the public, then a first reading could be appropriate.

Director Stevens moved to adopt the Ordinance but Mr. Arends and Mr. Aladjem helped with the wording of the proper motion which was to read the title, waive the reading of the remainder of the ordinance, but to not make any determination of what would happen in February. The final determination was that the title has been read and the board is waiving the complete first reading of the Ordinance in the process of developing an ordinance. It was also made clear that this was not for approval of the Ordinance. A voice vote was taken of 6-1 with Director Ramirez Holmes voting no.

Item 9 - Committees – Retailers/Wholesaler Liaison Committee Meeting – November 17, 2014 – draft notes
Finance Committee Meeting – January 8, 2015 – notes
Water Resources Committee Meeting – January 13, 2015 - notes

Director Figuers noted that at the Finance Committee Meeting five specific committee meeting dates were set up (April 23, May 7, July 9, September 10 and November 19). Four are designed for specific actions. The July meeting is a placeholder, if needed. The Committee will also revisit the reserve policies and how they were originally defined. Financial policies will also be discussed.

Item 10 - Reports - Directors

- a. Verbal comments by President – Off-site Board meeting February 4 at Hilton Garden Inn
- b. Written report by Director Quigley
- c. Verbal Reports

Director Quigley said he attended an Alameda County California Special Districts Association meeting where Supervisor Nate Miley spoke about a County initiative for disposal of prescription drugs. He also noted that this would be of interest to Margaret Tracy and thanked Ms. Duerig for the response letter she sent to her.

Director Ramirez Holmes said she viewed a webinar on Managing Drought. She also viewed a webinar on New Infrastructure Financing Tools. She also attended a Pleasanton City Council meeting where the City Council voted to suspend for 90 days their mandatory restrictions and their fine structure but still encouraged residents to conserve.

Director Stevens attended a LAFCO meeting where Ms. Duerig gave a presentation on flood control.

Item 11 - Items for Future Agendas - Directors

Item 12 - Staff Reports (Information items. No action will be taken.)

- a. General Manager's Report
- b. Monthly Budget Report
- c. December Legislative Update
- d. December Outreach Activities
- e. Update Related to the Bay Delta Conservation Plan
- f. Drought Update
- g. Verbal Reports

Director Stevens had comments on the Drought Update staff report. H wants to get rid of the 1982 wet year graph and insert 2013-14 as a reminder to everybody that it parallels 1976-77 and this year we will see if we are rebounding compared to the second driest period.

Director Figuers said January is now the 7th out of 9 Januarys that have had low rainfall totals and it breaks the previous record from 1931.

The Board went into closed session at 8:45 p.m.

Item 13 - Closed Session

- (a) Conference with Legal Counsel - Significant exposure to litigation pursuant to Gov't Code Section 54956.9(d) (2): 3 cases
- (b) Conference with Legal Counsel - Potential litigation pursuant to Gov't Code section 54956.9(d) (3): 1 case
- (c) Conference with Legal Counsel - Existing litigation pursuant to Gov't Code Section 54956.9(d) (1):
Alameda County Flood Control and Water Conservation District, Zone 7 v. Pleasanton Gravel Co., Alameda County Case No. HG14724177
- (d) Conference with Labor Negotiators:
Agency Negotiator: G.F. Duerig
Employee Organizations: Alameda County Management Employees Association; Alameda County Building and Construction Trades Council, Local 342, AFL-CIO; International Federation of Professional and Technical Engineers, Local 21, AFL-CIO; Local 1021 of the Service Employees International Union, CTW; Unrepresented Management.

Item 14 - Open Session and Report Out of Closed Session

The Board came out of Closed Session at 9:08 p.m. and President Greci reported there were no reportable actions taken in closed session.

Item 15 - Adjournment

The meeting was adjourned at 9:10 p.m.