

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

October 16, 2013

President Stevens called the meeting to order at 7 p.m. The following were present:

DIRECTORS: SANDS FIGUERS
JOHN GRECI
AJ MACHAEVICH
SARAH PALMER
RICHARD QUIGLEY
ANGELA RAMIREZ HOLMES
BILL STEVENS

DIRECTORS ABSENT: NONE

ZONE 7 STAFF: JILL DUERIG, GENERAL MANAGER
KURT ARENDS, ASSISTANT GENERAL MANAGER, ENGINEERING
TOM HUGHES, ASSISTANT GENERAL MANAGER, ADMINISTRATION
ELKE RANK, ASSOCIATE WATER RESOURCES PLANNER
COLLEEN WINEY, ASSISTANT GEOLOGIST
JUDY RECTOR, BOARD SECRETARY

COUNSEL: DAVID ALADJEM, DOWNEY BRAND

Item 1 - Call Meeting to Order

Item 2 - Pledge of Allegiance

President Stevens led a salute to the flag.

Item 3 - Citizens Forum - None.

Item 4 - Minutes of the Regular Meeting of September 18, 2013

Director Ramirez Holmes noted corrections to the minutes including Page 4, a change in the wording to a sentence “she questioned why those were requested additions” in place of the wording “She feels the Principles of the Board are to control behaviors of Board Members.” The second correction was a change in the minutes to delete a reference to the way Director Quigley voted no with her but she corrected the minutes to reflect only her comments. In the third correction on Page 7, Item 13 (c), she thanked Linnea Allen, Water Resources Coordinator from City of Livermore, for a great event and asked that it be added to the minutes.

Director Palmer moved that the corrected minutes for September 18, 2013, be approved and Director Quigley seconded the motion. The minutes passed by a 7-0 voice vote.

Item 5 - Consent Calendar

Director Ramirez Holmes requested that Consent Items 5(e) and 5(f) be pulled. Director Palmer asked that Consent Items 5(c) and 5(d) be pulled.

Director Ramirez Holmes moved that Consent Items 5(a) and 5(b) be approved and Director Quigley seconded the motion. Both items were approved by a voice vote of 7-0.

Resolution No. 14-4311 Board of Directors approved amending the Zone 7 Water Agency Strategic Planning Priorities by adding language to develop long-term balanced management of watersheds and manage the watershed to maintain and improve source water quality to protect public health and safety. (Item 5a)

Resolution No. 14-4312 Authorized the General Manager to negotiate and execute a Lease Agreement with the City of Livermore for installation and Maintenance of a solar panel and antenna for Cal Water Turnout No. 7. (Item 5b)

Director Palmer referred to the Location Map, which was part of Consent Item 5(c) and asked if the landscaping would impede the trail but Mr. Arends confirmed it would not. Director Quigley moved to adopt the resolution and Director Ramirez Holmes seconded the motion, which was approved by the Board with a voice vote of 7-0.

Resolution No. 14-4313 Authorized the General Manager to negotiate and execute a License Agreement between the Dublin San Ramon Services District and Zone 7 for installation and maintenance of landscaping along the Line G-1-1 channel. (Item 5c)

Director Palmer asked if Item 5 (d) took into account the FEMA flood zone downstream of Del Valle dam. Mr. Arends replied that the purpose of the agenda item is public awareness of flood threats and preparing for flooding. Director Palmer noted that it would be good public awareness and education for South Livermore and Director Ramirez Holmes added for Pleasanton, too. There was discussion about the pamphlet attached to the agenda item and the Directors noted the web page listed on the flyer at FloodSAFE California: www.water.ca.gov/floodsafe/plan or www.water.ca.gov . Director Palmer moved approval of the resolution and Director Quigley seconded the motion. The motion passed with a voice vote of 7-0.

Resolution No. 14-4314 The Board resolved that Zone 7 will participate in California Flood Preparedness Week 2013 and expressed support for increased public awareness of flood threats, and encourage all Zone 7 residents to take action to know of flood threats and prepare appropriately. (Item 5d)

Director Figuers left the meeting at 7:05 p.m.

Director Ramirez Holmes referred to Clause No. 3, Financial Provisions (a) Costs of Services in Consent Item 5(e) that she had pulled. Director Ramirez Holmes asked if that means Zone 7 **is not raising rates** cannot raise rates. Ms. Duerig explained that we do not currently provide flood

protection services to Dougherty Valley. The purpose of this section was to assure Contra Costa County that Zone 7 was not going to infringe upon the powers of or services provided or taxes collected by existing public agencies in Contra Costa County, it will be the same as everywhere else. Director Ramirez Holmes expressed concern that the language is unclear. Ms. Duerig said that it is a “Principles of Understanding.” At the time it was taken to Contra Costa, it was not proposed as anything but laying groundwork on how staff talks to staff. President Stevens said it outlines concepts, it is not a contract, and can be vague but the bottom line is it will not cost them any money.

Director Ramirez Holmes said in the introductory proposal issue it does not just say “flood” and on (d) Ballot Measures she does not understand the purpose for it because it will take away a voice if it is a freedom of speech issue. General Counsel David Aladjem clarified that public agencies don’t have freedom of speech like individuals do. Public agencies are very limited, particularly in the expenditure of funds, on any ballot measures that go before the voters and there are limitations on how you spend money. What Contra Costa County was looking for is for Zone 7 to not interfere with any activity they put on the ballot such as an increase in taxes, fees, assessments, etc. We can’t do that and this language acknowledges existing limitations rather than limiting free speech rights.

Director Palmer said that 2(b) (Contra Costa County Flood Control & Water Conservation District Services) addresses most issues. Director Quigley said he is uncomfortable with the way it is written, but since it doesn’t have any funding impacts and are just principles, he feels it should go forward.

Director Machaevich moved and Director Quigley seconded the motion to approve Resolution 14-4315. The motion passed by a voice vote of 6-0-1 with Director Figuers absent.

Resolution No. 14-4315	The Board authorized the General Manager to negotiate and execute the Principles in general conformance with the Draft Principles presented to the Zone 7 Board on this date and as an attachment to this agenda item. (Item 5e)
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Director Ramirez Holmes asked about the redlined items in the attachment to Consent Item 5(f) and is concerned that it says “The Board cannot represent or commit Zone 7 without action by the full board.” She re-read the Board Policy on Conducting Business and this is already in the policy because you cannot commit Zone 7 to anything. She thinks the word “represent” should be removed because the Directors represent Zone 7 all the time without authorization. After discussion by the Directors over the words “commit” and “represent,” Director Palmer suggested the wording should be “Cannot represent a position of the full board or commit Zone 7 without action by the full board.”

Director Palmer moved to accept the language as amended and Director Greci seconded the motion, which was passed by a voice vote of 6-0-1 with Director Figuers absent.

Resolution No. 14-4316	The Board approved the revised language amending the “Guiding Principles for Board Members” summarizing key principles in those policy documents. (Item 5f)
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Item 6 - Staffing Update

Ms. Duerig announced that Gerald DeWitt, Maintenance Manager, was chosen as the August 2013 Employee of the Month. Ms. Duerig noted his positive attitude and how he is always looking for better ways to operate and maintain the system. Because he has a T-5 and a D-5, plus maintenance experience, he is able to balance the needs of Maintenance and Operations. He has been recognized with several Zone 7 in-house awards. The Board applauded him in absentia.

Item 7 - Proposed 2014 Municipal and Industrial Water Connection Fee

Tom Hughes, Assistant General Manager, Administration, reminded the Board that the first reading for the Municipal and Industrial (M&I) Connection Fee was at the September Board meeting along with an explanation of the purpose of the connection fee. The basic fee is updated annually based on the Engineering News Record Construction Cost Index (ENR CCI) and has been re-evaluated every three years or sooner if needed. Reports and plans used in determining the fee are developed every five years. Staff recommends that the update interval be changed to every five years.

For the 2014 fees, staff recommends increasing the current fees by a 2.26% increase to keep pace with inflation and based on the change in the ENR CCI from September 2012 to September 2013.

Director Machaevich asked why the connection fees are different for the Zone 7 service area versus the Dougherty Valley service area. Ms. Duerig clarified that the developers purchased a big block of water rights so a lot of the water connection fee is based on acquiring new water but Dougherty Valley brought in their own allocation.

Director Greci moved for approval and Director Palmer seconded the motion. A roll call vote was taken and the motion was passed 6-0-1 with Director Figuers absent.

Resolution 14-4317 The maximum update interval for comprehensively evaluating the connection fee is changed from every three years to every five years. The Board amended the basic fee for a standard 5/8" meter within the Zone 7 service area to \$24,030 and within the Dougherty Valley Service Area to \$22,240, effective January 1, 2014, until the Board establishes a new basic fee for Zone 7. For meter types larger than the 5/8" basic meter, the basic charge shall be multiplied by a fee factor as described in Zone 7's Ordinance No. FC 0-91-68.

Item 8 - Environmental Compliance & Planning, As Needed Services

Ms. Duerig introduced Elke Rank, Associate Water Resources Planner in Integrated Planning. Ms. Rank explained that Zone 7 has a need for environmental compliance and planning support services to meet California Environmental Quality Act (CEQA) and regulatory requirements. Outside services are meant to supplement staff, provide additional support to meet regulatory deadlines or a biological restriction in order to get permits done, or if a particular expertise that is not available in-house is needed. CEQA, permitting, biological studies and surveys,

geomorphology and hydrology studies in support of particular projects, as well as monitoring and post-project reporting, are the categories needing additional support and services.

A Request for Proposals was sent to 14 consultants and staff reviewed the 9 that were submitted. Environmental Science Associates (ESA) was selected as the best qualified to provide the needed services.

Director Quigley discussed the opportunity for Zone 7 to partner with others like the Resource Conservation District (RCD). Ms. Rank explained that specific projects require employees with backgrounds with a lot of range and expertise, which ESA provides. She also said they are using RCD and NRCS for a current red-legged frog riparian habitat survey plus RCD does have some limitations such as they do not do mitigation monitoring.

Ms. Duerig added that there was an emergency project removing debris from a failed weir and for the first time an in-house person, Assistant Water Resources Planner Tami Church, was approved by the regulatory agency for biological monitoring. An emergency permit from the Army Corps of Engineers required resumes from qualified biologists. ESA submitted resumes, along with Zone 7 employee Tami Church's resume, and all were approved for working on the project.

Director Machaevich asked how the contingency fund is decided and if the same policies would be used to determine the use of funds. Ms. Rank replied that if there is an emergency, and it depends on what the project is, it has to be decided how it will be funded and the same policies would be used to make that decision.

Director Quigley moved and Director Machaevich seconded the motion to approve the contract with ESA. A roll call vote was taken and the vote was 6-0-1 with Director Figuers absent.

Resolution 14-4318 Authorized the General Manager to negotiate and execute a professional services contract with ESA for environmental compliance and planning services for FY 2013-14 for a not to exceed amount of \$215,000, with options for two annual renewals in amounts not to exceed \$215,000 annually, for a total 3-year amount of up to \$645,000.

Director Figuers returned at 8:10 p.m.

Item 9 - Chain of Lakes Preliminary Lake Use Evaluation and Related Issues

Ms. Duerig reported that a comment letter had been received from Marshall C. Wallace, of the law firm of Allen Matkins Leck Gamble Mallory & Natsis LLP, regarding the Chain of Lakes item on the agenda for this board meeting. The letter expressed a concern that at the recommendation of a member of the Water Resources Committee, recycled water storage had been tentatively shifted to primary use and Lakes F and G are the only two lakes that scored positively for this use. Mr. Wallace's client, The Pleasanton Gravel Co., objects to any use or storage of recycled water on or near their property.

Colleen Winey, Assistant Geologist in the Groundwater Section, presented a map of the Chain of Lakes' area and discussed the preliminary Lake Use Evaluation that refines the list of potential uses and the criteria of evaluation. She provided a summary for each lake rated by percentage

and identified it for primary uses (storage conveyance, groundwater recharge, stormwater detention, recycled water) or secondary uses (active recreation, passive recreation/education and habitat). A Lake Use Summary shows Cope Lake the highest rated for stormwater detention; Lake I rated the highest for groundwater recharge; Lake A rated the highest for education/passive recreation; Lake A rated the highest for habitat; and Lake F rated the highest for recycled water storage. The same information was given to the Water Resources Committee. Staff will come back to the Board in December with a draft plan for approval.

Director Palmer noted that these are scores for possible uses and not designating Lakes F and G for recycled water. President Stevens said that maybe by 2058 the water will be clean enough for storage and use for recycled water but the current method of cleaning recycled water now, and suggested it be a secondary not a primary use. Don Kahler said that the original agreement was for water storage and flood protection only and that recycled water storage is not an appropriate use for the Lakes. Director Quigley said we need to be aware of what other water districts are doing with cleansing and storing recycled water.

Director Machaevich said that if there is no place to store recycled water in the Chain of Lakes, then extra treatment and expensive storage tanks would be required. He is concerned about making recycled water use too expensive.

Ms. Duerig said recycled water is a critical component of the Valley's water portfolio and water recycling is how Zone 7 and the Retailers are going to meet the 20% by 2020 requirement of state law, along with water conservation, to reduce the per capita consumption of water. The MOU with DSRSD looks at opportunities for the storage of recycled water in the Chain of Lakes area but because Zone 7 is the groundwater manager, there is a balancing act involved with assuring groundwater quality is not impacted.

General Counsel David Aladjem said that hopefully in the next year or two, the Department of Public Health will develop standards and regulations for indirect potable reuse for recycled water, we will have the State's input and guidance on protecting the public's health, and we will be able to meet the 20% by 2020 standards.

Director Greci asked if the agreements with the mining quarries included recycled water. Ms. Duerig said the term "water" could be open to interpretation and could mean different types of water but we wouldn't do anything that didn't make sense for the groundwater basin.

Director Figuers said the transfer of the quarries to Zone 7 is the final reclamation under SMARA. Once it has been approved and accepted as final reclamation, the quarries are out of the picture but the contracts are separate. Don Kahler said if the lakes are not used, they get the property back. Ms. Duerig said each contract with the quarry owners is different but some contracts have reversionary clauses.

Director Quigley asked if all amendments ride on the original master mining agreement. There was a master mining agreement around 1976-77 with Mun Mar. Ms. Duerig clarified that a key document is the Specific Plan for the Livermore-Amador Valley Quarry Area Reclamation.

Margaret Tracy said you have to consider the future and the remarks she noted made by Herman Bouwer in the Zone 7 March Board meeting about contaminating groundwater with recycled water.

Ms. Winey discussed the Surface Mining Permits (SMP) that are subject to periodic reviews by Alameda County. SMP-23, issued to CEMEX, covers Lakes A and B. CEMEX has submitted an amendment to the SMP-23 plan which proposes modifications to both Lakes A and B. Zone 7 is assessing the impacts to our long-term operations and exploring options to address potential impacts could have on Zone 7 operations.

Director Palmer asked about the proposal to minimize the mining in Lake A and has it changed much since it was presented originally? Ms. Winey said they are not going to dig any deeper than their approved reclamation plan shows. Director Palmer expressed interest in getting more information on changes when Ms. Winey receives them.

President Stevens asked about compensation for going into the lower aquifer and, if it causes evaporation, receiving compensation. Ms. Winey said that under the current SMP, there isn't supposed to be mining into the lower aquifer.

Director Ramirez Holmes was focused on the outreach piece but did not see comments so she asked what the feedback was, specifically from the East Pleasanton Specific Plan Committee or the Retailers in response to criteria or uses. Ms. Winey said she has not received responses from the EPSP. Ms. Duerig said any comments received from the public are reflected in the minutes of the Water Resources Committee meeting and previous meetings but the three main categories of comments received are safety, flooding and DSRSD's concern to continue to evaluate opportunities for recycled water storage. Don Kahler said the Pleasanton City Council decided to do an EIR on the whole project and is not questioning trails, and that is possibly why they are not commenting.

Item 10 - Award of Contract for the DVWTP Caustic Soda Storage Tank Relining Project

Mr. Arends informed the Board that this project is part of a larger storage project that is being done by staff but this work needs to be done by a contractor. The work includes relining the caustic soda storage tank built in 1974 and as well as relining an alum tank that is no longer used so is being converted to a caustic soda storage tank. Both tanks will be cleaned and evaluated and the interior of the secondary containment structure will also be recoated. It is difficult to replace the tanks because of their location and it is more cost effective to reline and refurbish the existing tanks. The two tanks will double caustic soda storage and allow a longer time between chemical deliveries.

Two bids were received and the lowest bid was for \$215,500 from Picon FRP, Inc.

Director Greci asked if caustic soda can be stored outside and then pumped into the building. Mr. Arends replied that 50% caustic soda freezes at 55 degrees so it should be stored inside so the temperature can be controlled.

Director Palmer asked the projected lifespan of the tanks once refurbished. Mr. Arends replied it should add another 25 years and there will be a new shell built inside the tank so it is like a tank inside a tank.

Director Machaevich asked if that makes it easier for retrofitting in the future. Will it be easier in 25 years to retrofit again because of this design? Mr. Arends said the tanks' integrity will also be evaluated but this is an easier solution for these tanks for today.

Director Figuers asked about the concrete shell. Mr. Arends said they are pure fiberglass tanks with a concrete secondary structure so they will be coated as part of the hazardous materials requirements to withstand the chemical should there be a spill. Director Figuers inquired about the working life of a fiberglass tank. Mr. Arends said the tanks were put in 35 years ago and the caustic soda tank has reached the end of its design life. Ms. Duerig said that the alum tank and the caustic tank share a secondary containment but this is a win-win situation because Zone 7 is able to re-use a tank rather than eliminate it.

Director Machaevich asked about warranties on the tanks but was told the warranties are on workmanship. Is there a cost estimate to replace the tanks? Rhett Alzona, Senior Engineer, said the space is tight and the tanks would need to be cut up and probably new tanks made out of steel, which could quadruple the price over relining them.

Director Ramirez Holmes moved and Director Machaevich seconded the motion to award the contract to Picon FRP, Inc. A roll call vote was taken and the motion passed by 7-0.

Resolution 14-4319 The Board authorized the General Manager to negotiate and execute a contract with Picon FRP, Inc. in an amount not to exceed \$215,500 for the DVWTP Caustic Soda Storage Tank Relining Project along with change orders as needed in an amount not to exceed \$21,550.

Item 11 - Committees - Water Resources Committee, September 24, 2013 - notes
- Administrative Committee, October 10, 2013 - notes

Item 12 - Reports - Directors

- a. Verbal comments by President
- b. Written report by Director Quigley
- c. Other Directors' Verbal Reports

Director Palmer had a handout that she distributed regarding GRACast webinars. She also attended a meeting in Santa Clara on the Bay Delta Conservation Plan. Mark Cowin's main concern is to not have the reversal of river flows if the tunnels are put in the Delta.

Director Ramirez Holmes toured the Zone 7 demineralization facility on September 26 and the Stoneridge Drive Bridge construction and thanked Colter Andersen and Carol Mahoney for taking her on the tour. On October 2, she attended the Pleasanton Chamber of Commerce Barbeque for Elected Officials. On October 15, she attended a Pleasanton City Council meeting, which had the East Pleasanton Specific Plan EIR on the agenda. She thanked Colleen Winey for continuing to represent Zone 7 with this lengthy process. As Mr. Kahler mentioned, they are going to proceed with the EIR. No discussion around the limitations to the plans, trails and access to the lakes that are on the wish list but she said Zone 7's main focus is water.

Item 13 - Items for Future Agenda - Directors - none.

Item 14 - Staff Reports (Information items.)

- a. General Manager's Report
- b. Communications Outreach Activities
- c. Legislative Update
- d. Monthly Budget Report
- e. Verbal Reports

There were no verbal reports.

Director Ramirez Holmes referred to the Monthly Budget Report and said we are spending more than revenues in every fund except one and is this cause for concern? JaVia Green, Staff Analyst, explained it has to do with the seasonal aspect of revenues such as flood control maintenance, property tax revenue and water sales revenue.

Director Figuers asked about the Finance Committee on November 14th and why it was not listed as an upcoming meeting on the agenda and that it should be noted in the minutes. The meeting was scheduled after the agenda was finalized for the mailing prior to the October 16th board meeting.

The board went into closed session at 8:30 p.m.

Item 15 - Closed Session

- (a) Conference with Legal Counsel -- Significant exposure to litigation pursuant to Gov't Code Section 54956.9(d) (2): 1 case.
- (b) Conference with Legal Counsel -- Potential litigation pursuant to Gov't Code section 54956.9(d) (3): 2 cases.
- (c) 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.
- (d) Conference with Real Property Negotiator:
Property: APN 946-1251-029-00.
Agency negotiator: G.F. Duerig
Negotiating party: Robert M. Krantz, Broker, North Pacific Coast Company
Under negotiation: Price and terms of payment.

Item 16 - Open Session and Report Out of Closed Session

The Board came out of Closed Session at 9:10 p.m. President Stevens stated there was no reportable action taken in closed session.

Director Palmer moved and Director Figuers seconded the motion to amend Appendix A, Footnotes to Salary Schedules, and it was approved by a voice vote of 7-0.

Resolution 14-4320 The Board approves the amendment to Appendix A, Footnotes to Salary Schedules Section 4.13 - Multiple Divisions (Assistant General Manager, Finance or Personnel) when assigned by the General Manager the responsibility to oversee more than one division shall receive 5 percent compensation below the total compensation of the Assistant General Manager, Engineering, including additional pay as provided in Section 4.12.

Item 17 - Adjournment

The meeting was adjourned at 9:12 p.m.