

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

REGULAR MEETING
December 15, 2010

President Greci called the regular meeting to order at 7:00 p.m., with a salute to the flag. The following were present:

DIRECTORS: SANDS FIGUERS
JOHN GRECI
AJ MACHAEVICH
CHRISTOPHER MOORE
SARAH PALMER
RICHARD QUIGLEY
BILL STEVENS

DIRECTORS ABSENT: NONE

ZONE 7 STAFF: JILL DUERIG, GENERAL MANAGER
REN NOSKY, GENERAL COUNSEL
KURT ARENDS, ASSISTANT GENERAL MANAGER, ENGINEERING
VINCE WONG, ASSISTANT GENERAL MANAGER, OPERATIONS
JOHN YUE, ASSISTANT GENERAL MANAGER, FINANCE
CAROL MAHONEY, ASSOCIATE GEOLOGIST
AMPARO FLORES, ASSOCIATE CIVIL ENGINEER
JUDY RECTOR, ACTING BOARD SECRETARY

Item 3 - Citizens Forum

None.

Item 4 – Minutes of the Regular Meeting of November 15, 2010

Director Moore moved and Director Palmer seconded approval of the November 15, 2010 minutes. The voice vote to approve was 7-0.

Item 5 - Consent Calendar

Director Palmer moved for approval and Director Quigley seconded the motion. The resolutions were approved by a roll call vote of 7-0:

Resolution No: 11-4052	Accept the annual report of development fee revenues and expenditures for the fiscal year ending June 30, 2010. (Item 5a)
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Resolution No: 11-4053	Accept the annual independent audit for the period ending June 30, 2010. (Item 5b)
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- Resolution No: 11-4054 Authorize the General Manager to negotiate and execute amendments to the 2001, 2002 and 2003 Semitropic Point of Delivery Agreements, to extend their return periods. (Item 5c)
- Resolution No: 11-4055 Authorize the General Manager to negotiate and execute a professional services contract with The Gualco Group, Inc., to provide advocacy and legislative support services for a total not-to-exceed amount of \$60,000 for Calendar Year 2011. (Item 5d)

Item 6 - Staffing Updates

Item 6a – Employee of the Month Recognition

Ding Bang Bao, Water Plant Operator, is the employee of the month for October 2010. He currently works as a Water Treatment Plant Operator at the Del Valle Water Treatment Plant. According to the recommendations the committee received, Ding Bang is hardworking, dependable and is a pleasure to work with. He is always focusing on operating efficiency and constantly looking for ways to not only make the plant better but expanding his own knowledge. He is one of those wonderful guys to work with, always pitching in, always stepping up and offering to do things. In summary, we are fortunate to have Ding Bang on the job.

Item 7 – Award of Contract for the Patterson Pass Water Treatment Plant Electrical Power System Upgrade Project

The PPWTP Electrical Power System Upgrade Project includes replacement of the motor control center (MCC), its automatic transfer switch (ATS), associated electrical and control wiring, and a new electrical service for the California Department of Water Resources. Kurt Arends, Assistant General Manager, Engineering, explained that at the bid opening on December 7, Zone 7 received seven bids ranging from \$192,000 to \$585,000, all significantly lower than the engineer's estimate of \$730,000. The low bidder (\$192,000), Con J. Franke Electric, withdrew its bid due to calculation errors. The next lowest responsive and responsible bidder was Central Sierra Electric, Inc. On December 10, Zone 7 received a bid protest from MarTech, the fifth lowest bidder, against the fourth lowest bidder, Edward W. Scott Electric, relating to a subcontractor issue.

Angie McDaniel, representing Mechanical Analysis Repair, Inc. (MarTech) in Lodi, California, addressed the Board concerning Item 7. She said the project specs call for an independent, NETA-certified subcontractor for field testing. The only bidders to provide this were Edward W. Scott Electric and MarTech as per Section 16950, Electrical Tests. MarTech submitted the protest based on codes set forth in the subletting and subcontracting fair practices act against Edward Scott and Square D Engineering for the required arc-flash study listed as a bid item on Document 00400-2, Schedule of Prices. Ms. McDaniel requested that the Board of Directors reject Central Sierra Electric's bid and all other bids which do not comply with the act.

Kurt Arends identified two issues: 1. There is a contract requirement to use Square D for arc-flash testing and other testing required in the project. 2. The other issue raised by MarTech, and not part of their written bid protest, concerns requiring that electrical testing by an independent, subconsultant should be used, and also states that they should be certified by the InterNational Electrical Testing Association (NETA), an electrical testing certification. Zone 7 staff

acknowledged that it does state in the specifications that the testing should be done by an independent subconsultant. Since this is a waiveable action not affecting the bid, and the low bidder as an electrical contractor may not plan to use any subconsultants if they have somebody who is NETA-certified, staff recommends going ahead and waiving that non-material, waiveable irregularity in the bid and award the contract.

General Counsel Ren Nosky thanked Ms. McDaniel for clarifying the protest because there was confusion regarding the content of the protest letter.

General Manager Jill Duerig reminded the Board that there is a timing issue with this project. The goal is to accomplish the project during the winter while the plant is shut down for the Patterson Reservoir cleaning and before demand starts up in March or April. If the project is re-bid, that window of opportunity will be missed. The project is needed because ground squirrels ate electrical conduits at the Patterson Pass Plant and parts of the electrical system are so outdated that they could not be replaced; the system has to be upgraded at the same time that the conduits are re-done.

After discussion by the Directors and reassurance by General Counsel Ren Nosky that the waiver is for the listing requirement, not the contractual requirement, Director Figuers moved for approval including a waiver of listing of the independent tester. Director Palmer seconded the motion. Before the vote, Kurt Arends added that the initial contract did not include electrical services to DWR for pumps, but it is cost effective for Zone 7 to do the work. A scope asking for an additional \$12,000 in design and support funding in the contract is included in the last line of the resolution and this brings the new total to \$205,600. Director Palmer stated that she would have preferred to see this addition on a separate resolution because it is a separate contract. Director Stevens stated his concern that waiving any requirement in the specifications might be unfair. The dollar amount is so small that it did not require a separate General Manager contract.

The wording of the resolution was revised to include the following language:

“BE IT FURTHER RESOLVED that the General Manager be authorized to waive the irregularity to list the testing subcontractors; and”

Director Figuers moved for approval of the conformed resolution and Director Quigley seconded the motion. Resolution No. 11-4056 was passed after a roll call vote of 6-1 with Director Stevens voting no.

Item 8 – Flood Protection and Storm Water Drainage Development Impact Fee Annual Adjustment

Kurt Arends, Assistant General Manager, Engineering, reminded the Board of the background on the Development Impact Fee Annual Adjustment and Ordinance. Zone 7’s Board of Directors adopted Ordinance 2009-01, which established the Flood Protection and Storm Water Drainage Development Impact Fee (DIF), on March 18, 2009 and then amended it by Ordinance 2010-1 on March 17, 2010. The Ordinance prescribed the assessment of a DIF for developments creating new impervious surfaces as part of their projects.

The DIF is used to fund future projects identified in the Stream Management Master Plan which was approved by the Zone 7 Board in 2006. Ordinance 2010-01 prescribes a fee schedule for DIF

adjustments. The fee, effective January 1, 2011, is \$0.96 per square foot of impervious surface. The Ordinance allows for an adjustment in the fee in accordance with the published Engineering News Record Construction Cost Index (ENRCCI). The San Francisco ENRCCI percent difference for the period between December 2009 and December 2010 is +4.1% which, when applied to \$0.96, results in an adjusted DIF of \$1.00. This action required a public hearing and it was noticed in the newspaper on December 4 and 9, 2010. President Greci opened and closed the public hearing with no public comment.

Director Quigley moved for approval of the annual DIF adjustment and Director Stevens seconded the motion. Resolution 11-4057 was passed by a roll call vote of 7-0.

Item 9 – Adoption of the 2010 Urban Water Management Plan

The Delta Committee heard the presentation on the 2010 Urban Water Management Plan at its December 7 committee meeting. The Board members on the committee were anxious to have the remainder of the Board hear the presentation by Amparo Flores, Associate Civil Engineer.

Ms. Flores summarized the purpose of her presentation as a discussion of regulatory requirements, an overview of the draft plan, a discussion of the agency coordination and the public review process as required, and the status and schedule. The draft 2010 Urban Water Management Plan (UWMP) is a planning, water management, and communication tool that assesses the reliability of Zone 7's water resources over a 20-year planning horizon. It is required to be updated and adopted every five years. It was developed in coordination with Zone 7's retailers and was subject to review by cities and other relevant public agencies in the service area, as well as the public. It includes an analysis of Zone 7's water supplies and demands. It assumes 100% reliability in accordance with Zone 7's current policy, and assumes that a portfolio of potential water supply programs and projects will be implemented to comply with this policy. Zone 7 staff is evaluating potential portfolios as part of the Water System Master Plan (WSMP), which is expected to be completed in March 2011.

An urban water supplier that does not prepare, adopt, and submit a UWMP to the California Department of Water Resources (DWR) is ineligible to receive grant funding and drought assistance from the State of California. The Draft 2010 UWMP has been completed to allow for its adoption and submission to DWR well ahead of the July 1, 2011 deadline, and before DWR receives hundreds of UWMPs from other agencies. This will expedite its approval by DWR, and ensure that Zone 7 continues to be eligible for grant funding and drought assistance from the State.

The public hearing regarding the Draft 2010 Urban Water Management Plan was noticed in the newspapers on November 8 and 15, 2010. President Greci opened the public hearing. Randy Werner, City of Livermore, talked about population being important because the state asks for per capita water consumptions. He is appreciative of Zone 7 staff checking the accuracy of these numbers and working with the retailers.

Director Palmer noted that internal staff, not consultants, created the document and Zone 7 benefits by having staff able to create such a document.

Director Palmer moved to adopt the motion and Director Quigley seconded. After a roll call vote, Resolution 11-4058 was approved by a vote of 7-0.

Item 10 – Partnership Agreement Between Zone 7 and City of Livermore for Flood Protection Improvements for the El Charro Specific Plan

Carol Mahoney, Associate Geologist, gave the Board information concerning the options for the El Charro and future Chain of Lakes area. Cheri Sheets and Pam Lung, City of Livermore Engineering, were present.

Since late 2006, Zone 7 and the City of Livermore have been discussing the City's plans to develop the area adjacent to I-680, east of El Charro Road, now known as the "El Charro Specific Plan" (ECSP). A Partnership Agreement will allow that \$10,000,000 will be available to the City of Livermore to facilitate the flood protection improvements along the Arroyo las Positas in the El Charro Specific Plan area. In addition to the flood protection improvements, the City is offering easements or fee title to three properties now owned by the City that will assist both parties in meeting the flood protection goals of the community.

There are five overall objectives of the Partnership Agreement: 1) provide local drainage for development as well as implement portions of Zone 7's Stream Management Master Plan (SMMP) associated with flood water detention, for the purposes of ultimately leading to future conveyance into the Chain of Lakes; 2) continue the use of the golf course as a floodplain for the conveyance of stormwaters; 3) provide a financial mechanism for cost sharing between the City and Zone 7 for the improvements described in the agreement; 4) provide a description of the flood protection improvements that will be constructed for mutual benefit; and 5) provide a description of mitigation measures, monitoring and maintenance responsibilities for the improvements described in the agreement. The City or the developer of the ECSP area, Paragon Outlets, is preparing to begin the bidding process and anticipate that this project will be awarded in early 2011.

Director Palmer moved and Director Machaevich seconded the motion. Resolution 11-4059 was approved by a roll call vote of 7-0.

Item 11 – Committees

No discussion.

Item 12 - Items for Future Agendas – Directors

None.

Item 13 - Reports - Directors

- a. Written reports by Director Quigley
- b. Verbal reports

Item 14 – Staff Reports

14. Staff Reports (Information items. No action will be taken.)
- a. General Manager's Report
 - b. Upcoming Public Outreach Activities
 - c. Legislative Update
 - d. Status Report on Separation Efforts
 - e. Verbal Reports

Kurt Arends gave a verbal report on the Bay Delta Conservation Plan (BDCP) efforts. On November 18, the Steering Committee held its "last" meeting where they issued a draft working document which represents the progress they made to date. The Steering Committee is a stakeholder group trying to develop a plan to meet the political goals of restoring the Delta and water supply. Mr. Arends will be giving the Board a written update on BDCP efforts next month. A lot of the difficult decisions have yet to be agreed to because trying to get the environmental groups to agree with the water supply contractors on how much water is taken out is a challenge. There is a lot of technical work to be done and a tech analysis is underway which tries to take all proposed actions of the plan and apply a science to the outcome of those actions. There is a lot of scientific debate while looking at water supply operations, restoring habitat, and other stressors and trying to predict the impact that will have on a fish species.

There is a lot of concern about federal support for this effort and that doing this could result in less water for contractors (the Westlands Water District issued a letter intending to withdraw from the BDCP and soon after San Luis-Mendota Water Authority followed suit). The BDCP is the stakeholder group providing direction to the permittees, DWR and the Bureau of Reclamation, in what their project should be. The State issued a document "Highlights of the BDCP." Federal agencies issued a federal document called "Interim Federal Action Plan Status Update for the California Bay Delta 2011 and Beyond." Judge Wanger issued a ruling on Delta smelt just prior to the Board meeting which resulted in some wins on both sides, but it will require Fish and Wildlife to re-do the biological opinion.

Director Stevens requested a presentation by Kurt to the Delta Committee or the Board as a whole on justifying why we are putting money into the BDCP effort. He has the impression Zone 7 is throwing money down the chute when it could be in a bank account. Mr. Arends agreed to bring the matter back to the Board to review.

Director Moore referred to an area in the General Manager's Staff Report in regards to trouble with T1 lines coming out of Del Valle:

- Due to the frequent communication failures between Del Valle Water Treatment Plant (DVWTP) and the rest of the system, the phone company's frequently-repaired T-1 connection to the plant has become suspect and Zone 7's IT group is evaluating options, including installation of a second T1 line to the plant.

Director Moore reaffirmed that this is related to the presentation he did on the broadband network. Because SCADA systems are required for critical infrastructure, he stressed that Zone 7 must have a wireless broadband network for public safety.

The Board went into closed session at 9:05 p.m.

15. CLOSED SESSION

- a) 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
- b) Conference with Legal Counsel – Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9: 1 case
- c) Conference with Legal Counsel – Existing litigation pursuant to Subdivision (a) of Government Code Section 54956.9:

County of Butte/County of Plumas v. State of California Department of Water Resources, Yolo County Superior Court, Case No. CV09-1258

Item 15 – OPEN SESSION AND REPORT OUT OF CLOSED SESSION

Closed session lasted only about ten minutes with nothing to report out.

The meeting was adjourned at 9:55 p.m.