

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

February 15, 2012

President Figuers 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  
A J MACHAEVICH (arrived late)  
CHRISTOPHER MOORE  
SARAH PALMER  
RICHARD QUIGLEY  
BILL STEVENS

DIRECTORS ABSENT: NONE

ZONE 7 STAFF: JILL DUERIG, GENERAL MANAGER  
KURT ARENDS, ASSISTANT GENERAL MANAGER, ENGINEERING  
TOM HUGHES, ASSISTANT GENERAL MANAGER, ADMINISTRATIVE SERVICES  
CAROL MAHONEY, SENIOR GEOLOGIST, INTEGRATED PLANNING  
RHETT ALZONA, SENIOR ENGINEER, FACILITIES ENGINEERING  
MARY LIM, ASSOCIATE WATER RESOURCES PLANNER  
JUDY RECTOR, BOARD SECRETARY

COUNSEL: DAVID ALADJEM, DOWNEY BRAND

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**Item 3 - Citizens Forum** – None.

**Item 4 - Minutes of the Regular Meeting of January 18, 2012**

On a motion by Director Quigley with a second by Director Greci, the minutes of the Regular Meeting of January 18, 2012, were approved by a voice vote of 6-0 with Director Machaevich absent.

**Item 5 - Consent Calendar**

Consent Items (d) & (e) were pulled because modified versions were given to the Board and staff wanted to explain the changes before the vote.

On a motion by Director Greci with a second by Director Palmer, Items a, b, c, f, g, h and i from the Consent Calendar were approved by a voice vote of 6-0 with the following resolutions (no resolution for Item g):

- Resolution 12-4158 Authorized Director Dick Quigley's attendance at the ACWA's DC Conference February 28 through March 1, 2012, in Washington, D.C. (Item 5a)
- Resolution 12-4159 Authorized the General Manager to negotiate and execute a grant contract and work with the United States Bureau of Reclamation (USBR) to obtain a WaterSMART: Water and Energy Efficiency Grant for water and energy saving improvements to Zone 7's Mocho Groundwater Demineralization Plant and certified that the amount of matching funding is available. (Item 5b)
- Resolution 12-4160 Authorized the General Manager to sign the Real Property Purchase Contracts (prior to submission to the Board of Supervisors) consenting to the granting of said real property rights to Caltrans for fee properties and temporary construction easements as part of the construction for the High Occupancy Vehicle Lane on #I-580. (Item 5c)
- Resolution 12-4163 Authorized the General Manager to execute transition agreements with Alameda County Management Employees Association; Alameda County Building and Construction Trades Council, Local 342; International Federation of Professional and Technical Engineers, Local 21 Northern California Public Sector Region; and Local 1021 of the Service Employees International Union. (Item 5f)
- Resolution 12-4164 Approved continuing deductions for elective coverage of Unemployment Insurance for employees as previously provided by Alameda County commencing July 1, 2012. (Item 5h)
- Resolution 12-4165 Approved continuing deductions for elective coverage of State Disability Insurance for employees as previously provided by Alameda County commencing July 1, 2012. (Item 5i)

David Aladjem discussed the reasons for the revisions to Consent Item 5(d) – Zone 7 Conflict of Interest Code. When Zone 7 added Dougherty Valley in Contra Costa County, it became a multi-county agency. Previously, as a single-county agency, Zone 7 reported to the Board of Supervisors for Alameda County; now, as a multi-county agency, Zone 7 must report to the Fair Political Practices Commission (FPPC), a state-wide agency. The revision to the agenda item was not in the original Board agenda packet so a revised, red-lined version showing the differences in the reporting agency was provided to the Board prior to the meeting.

Director Palmer moved and Director Greci seconded the motion to approve Item 5(d). Resolution No. 12-1461 was approved by a voice vote of 6-0 with Director Machaevich absent.

Consent Item 5 (e), amending the Board Policy on Conducting Business, was presented to the Board with the changes to the paragraph on Page 9 shown in red-lined format to clarify decision-making authority in emergency and urgent business conditions. When the issue was raised about the powers of the General Manager in times of emergency, Director Moore asked if the General Manager has the ability on his or her own to be able to make decisions for the good of the agency

in emergency situations without having the Board present. The current policy did not have the language needed but the revision clarifies how those decisions are to be made.

Director Palmer moved and Director Quigley seconded the motion to approve Item 5(e). Resolution No. 12-1462 was approved by a voice vote of 6-0 with Director Machaevich absent.

Director Machaevich arrived at 7:10 p.m.

### **Item 6 - Staffing Updates**

#### **Item 6 (a) – Congratulations to Retirees**

Ms. Duerig congratulated John Yue, Assistant General Manager, Finance, and Peter Cruttenden, Water Resources Technician III, on their retirements. Neither was present at the meeting but a Board resolution was prepared for both Mr. Yue and Mr. Cruttenden to honor their service to the agency.

Director Quigley moved and Director Palmer second the motion to approve both resolutions: Resolution No. 12-4166 for John Yue and Resolution No. 12-4167 for Peter Cruttenden was approved by a voice vote of 7-0.

#### **Item 6 (b) – Employee of the Month Recognition**

Jeff Jones, Zone 7 Construction Inspector, is the employee of the month for December 2011. Although Mr. Jones was not present, Ms. Duerig discussed the variety of assignments he has had over the past 30 years with the agency including Operator, Maintenance Supervisor, Safety Coordinator, and now Construction Inspector. He was recognized as a valuable employee and a great asset to Zone 7.

### **Item 7 – Cope Lake Improvements & Maintenance Project – CEQA Compliance**

Mary Lim, Associate Water Resources Planner in the Integrated Planning Section, presented the above-noted item to the Board. This item involves two projects: 1) Cope Lake slope repairs to make it safe and functional as part of the Chain of Lakes network and 2) installing a discharge pipeline from the existing Vulcan discharge point to recapture groundwater and put into Cope Lake, Lake I or Lake H.

Two impacts, air quality (dust abatement) and biological resources (red-legged frog and avian species) were discussed and the mitigation measures that will be taken.

The Negative Declaration was made available for public review but no formal public comments were received.

Director Greci questioned whether Zone 7 has any right to do anything in lakes we do not own at the present time since Zone 7 will not own Lake H for two more years. General Counsel David Aladjem answered that we do not have land rights right now but will acquire them in two years. Director Greci asked if we are “jumping the gun” in mentioning Lake H in this proposal? General Manager Jill Duerig responded that when there is a possibility of a foreseeable environmental impact, it has to be considered as part of the overall conceptual project and this avoids the necessity for supplemental environmental impact assessments.

Director Stevens asked if Hanson is responsible for reclaiming Lake H. Don Kahler, Pleasanton Gravel, explained that it was difficult for Vulcan to get across the Mocho so Hanson mined it. He added that George Jamieson's home is located near the lake and is in danger of falling into it. Since Hanson actually mined the lake in the contract with Zone 7, and they have the responsibility of reclaiming the lake and installing the diversion structures. Hanson is leasing the property now but the lease expires in 2014. Hanson may not have enough money to build the diversion structure and complete the reclamation plan.

President Figuers asked if Hanson reclaiming it is part of the Surface Mining and Reclamation Act (SMARA) reclamation process and have sufficient financial assurances been posted? Mr. Kahler said every year the County makes sure bonds will cover all the reclamation and they thought there was enough money to cover the diversion structure. Fish and Game wants a different diversion structure and there is not enough money to accomplish it so the County is concerned about who is going to pay for it.

President Figuers asked General Counsel David Aladjem if, under SMARA, Hanson doesn't accomplish the reclamation, and Alameda County has control of those funds but do not have to do anything with them, could they just "walk" and Zone 7 could be on the hook? Mr. Aladjem responded that if the County tried to take the funds and say they do not have an obligation, there would be grounds for recourse against them under SMARA.

Director Stevens asked about Fish and Game's role. Mr. Aladjem said he is not aware that Fish and Game can unilaterally require a modification of a reclamation plan but they have a role in the process. Ms. Duerig clarified that the reclamation plan says there will be a diversion structure from the Arroyo Mocho. Fish and Game would have to permit such a diversion structure and can refuse to permit it unless there are fish screens and things not part of the original concept so the costs may become extremely high. Ms. Duerig believes it is within their permitting authority and we need to work with them to come up with less expensive alternative designs or perhaps some grant opportunities that might contribute to fish protection.

President Figuers said he has never heard of Fish and Game, under SMARA, going in after the fact and refusing or denying permits to construct something that has been approved by all agencies. Mr. Aladjem said the current experiences with Fish and Game show that they have become much more persuasive about how permits ought to be written and that is one of the reasons people are trying to work with them at the outset. Fish and Game has probably looked at the reclamation plan, said they don't care for it, would like more, and how do we get there? Because of EACCS and other initiatives, addressing these issues upfront with Fish and Game is the right direction for Zone 7.

Director Machaevich asked at what point Cope Lake becomes useable to us after it is cleaned up? Does it become a storage pond at that point and what is the timeline? Ms. Duerig said that in effect it is a storage pond now but it does not have safe side slopes because Zone 7 received the lake in an "as is" condition. Zone 7 has been reinforcing some of the most dangerous slopes that were slipping and sliding, especially near the house, but there is more work to do. Vulcan has been discharging into the Arroyo Mocho and, instead of letting that groundwater pump out of the groundwater basin, down the Arroyo and into the bay, we could move it, for example, into Cope Lake; that is one of the options.

Director Quigley asked for a guestimate on the impact to rate payers and do we have an expected water gain in wet and dry years? Ms. Duerig responded that in terms of rate impact, 70 percent is being picked up by connection fees or expansion funds, only 30 percent by the water rate aspect. Because it has already been factored into our water rate calculation, it does not have a direct impact. We won't know the actual cost until we complete the designs and go out to bid.

Rhett Alzona, Senior Engineer, Facilities Engineering, said the work that is going to be done this year is basically repairing slope failure. That is the immediate repair that was scheduled for 2013-14 but had to be moved up to this year.

Director Quigley remarked on sink holes. Mr. Alzona said there are sink holes on the upper slope and the intent of the project is to repair and put in drainage systems.

Director Moore clarified that the requested action is to approve an initial study and mitigated negative declaration and as the project moves forward, the Board will have a chance to review it again. Ms. Duerig agreed that this is not a final design yet, just approval to do those final designs once the Board has approved the project in concept.

Director Palmer asked about rewording the resolution due to comments in a letter the Board received from Reed Smith concerning Cope Lake Improvements such as "Lake H if it becomes available." Mr. Aladjem read some language that could be added to the resolution:

**Conditions Precedent to Project.** Absent the prior written consent of Pleasanton Gravel Company, Zone 7 will not discharge water into or make any other improvements or have access to Lake H at any time until proper title transfers to Zone 7.

He reassured the Board that the language will give the Board an opportunity to work with Pleasanton Gravel and to say, if we can reach an agreement, you can do the work but until then, no work is done until title transfers and that addresses Director Greci's question in the beginning of this discussion.

Director Stevens asked why we are going above ground on the pipelines. Ms. Duerig explained that we are looking at the worst case scenario when doing an environmental impact. There is no design yet and there may not be any pipelines at all or it could be a very short pipeline that goes into Cope Lake and then we finalize some of the existing connections to move water around; it is just an option. When you do an environmental impact assessment, you look at the worst case. Until they do the final designs, we do not know which design will be selected.

President Figuers opened the public hearing. No further comments were received. President Figuers closed the public hearing.

Director Moore moved for approval of the staff recommendation with the amendment of Counsel's language addition regarding Pleasanton Gravel. Director Palmer seconded the motion. Resolution 12-4168 was passed by a roll call vote of 7-0.

**Item 8 – Committees** – none.

**Item 9 – Items for Future Agendas – Directors**

## **Item 10 – Reports – Directors**

Director Quigley attended an ACWA Region 5 event and commented on the impressive facilities at Santa Clara Valley Water District.

Director Stevens noted that Directors can drive over and look at the new stormwater retention basin south of the Paragon Outlet Development at El Charro Road and gave directions on how to get there.

## **Item 11 – Staff Reports** (Information items.)

- a. General Manager's Report
- b. Legislative Update
- c. Status Report on Separation Efforts
- d. Update Related to the Bay Delta Conservation Plan
- e. Report on Zone 7 Vehicle Fleet
- f. Recent Public Outreach Activities - none
- g. Verbal Reports

General Manager Jill Duerig shared a verbal report that Patterson Pass Water Treatment Plant was back on line and applauded the construction team and start-up team. The clarifier upgrade project was completed and performance testing started ahead of schedule. This was a 50-year old clarifier and maintenance had been deferred several times because of a tight budget. There were fears it would fail in the summer during a high demand period so the project's timely and successful completion was critical.

Director Quigley commented that the City of Dublin put through the trail on the Laguna between Dublin and Pleasanton.

The Board went into closed session at 7:45 p.m.

## **Item 12 – 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

## **Item 13 - Open Session and Report Out of Closed Session**

President Figuers said there was nothing to report when the Board came out of closed session at 8:30 p.m.

The meeting was adjourned at 8:32 p.m.