

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

REGULAR MEETING

March 18, 2015

The following were present:

DIRECTORS: SANDY FIGUERS
JOHN GRECI
JIM MCGRIL
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
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

John Howard, Livermore, asked that the Board pull Item 5(c) from the Consent calendar for discussion.

Alfred Exner, Pleasanton, stated that there are over 1800 homes being built in Pleasanton and another 1300 proposed waiting for approval, yet he has to conserve water. He asked that the Board consider placing a future item on the Agenda, a moratorium on the approval of building new homes until we get past this drought.

Audrey Hutchinson, customer of DSRSD, stated that in 2014 Zone 7 didn't have enough water to give to DSRSD, and asked them to find their own water. She said that the General Manager of DSRSD located water to purchase, yet she heard in the media that Zone 7 is suing DSRSD. She is upset with Zone 7 and hopes the costs of the lawsuit doesn't pass downstream to its customers.

Linda Taylor, Pleasanton, talked about the wells near her home and apparent subsidence in Pleasanton. She said that in 1999 the wells went through the permit process and that it was understood that they would be dual-purpose wells (used both for extracting and injecting water). She stated that there are

now subsidence issues and the ground is sinking. She would like to know what the plan is moving forward to keep the ground from sinking further.

President Greci thanked the speakers and informed them that they will receive responses.

Item 4 - Minutes of the Regular Meeting of February 18, 2015 and Special Meeting/Board Workshop of February 4, 2015

Director Ramirez Holmes suggested tabling the minutes so that they can be expanded to reflect the amount of discussion that took place about the Nutrient Management Policy. President Greci concurred that due to technical difficulties and the length of the meeting, not all pertinent information was recorded in the minutes. President Greci suggested they be revised and submitted to the Board at the next Board meeting in April. Director Palmer moved to table the approval of the minutes of February 18, 2015, to next month's Board meeting. Director Quigley seconded the motion. The motion to table the minutes was approved by a voice vote of 7-0.

Item 5 - Consent Calendar

Director Ramirez Holmes asked that Items 5(a) and 5(c) be pulled for discussion.

Director Quigley asked that Item 5(b) be pulled for discussion.

Item 5(d) Authorization for Commercial Septic System Use, Darcie Kent Vineyards

Director Greci asked if there were any public comments on Items 5(d) or 5(e) on the Consent calendar. Alfred Exner, Pleasanton, asked that the Board take a strong stand on Item 5(d) before voting to make sure there is zero impact on the groundwater.

Director Palmer stated that they have made plans to put in a wastewater treatment system that meets Zone 7's proposed standards.

Director McGrail read from Item 5(d) that it is recommended that the approval be conditioned that Alameda County Environmental Health Department also approves the use and provides oversight during the operation and maintenance of the septic systems. He asked who is going to police these units and does it need to be part of the record?

David Aladjem, General Counsel, reminded the Board that Consent items are not for discussion and recommended that Items 5(c) and 5(d) be pulled for discussion.

Director Palmer asked that Item 5(d) be pulled for discussion.

General Manager Jill Duerig responded to Director McGrail's comments on the contingency of the County's Environmental Health Department's approval. She stated that that is to acknowledge that Zone 7 is not the permitting agency and staff didn't want to imply that Zone 7's approval is all that is needed. Darcie Kent Vineyards will need to get a permit from the County's Environmental Health Department.

Director Palmer moved that Item 5(d) be approved. Director Quigley seconded. The item passed by a 7-0 voice vote.

Resolution No. 15-52 Authorization for Commercial Septic System Use, Darcie Kent Vineyards.
(Item 5d)

Item 5(e) Personnel Action: Junior/Assistant Engineer/Geologist Position

Director Palmer moved that the remaining consent item, Item 5(e), be approved. Director Stevens seconded. Item 5(e) was approved by a voice vote of 7-0.

Resolution No. 15-53 Approved one unfunded position of Junior/Assistant Engineer/Geologist,
Zone 7. (Item 5e)

Item 5(a) Updating Board Policy on Conducting Business

Director Ramirez Holmes said that she was uncomfortable with policies being created on the Consent calendar. She stated that since this is a policy change she would like it to go to the Administrative Committee for discussion. She also stated she was quoted on some inconsistencies but the inconsistencies noted were not what she was speaking of. She stressed it is frustrating for policies that the Board is trying to write are placed in the Consent calendar and subsequently get pulled for discussion. She stated that this is why there are Committees to discuss them in detail and try to get them right, as opposed to dribbling out into meetings.

Director Palmer agreed that there were awkward phraseologies, and concurs that more wordsmithing by the Administrative Committee would be appropriate. Director Figuers stated that on the attachment, the first two bullets in the second section should be removed, and the fifth bullet needs to be reworded. Director Quigley stated that he is comfortable with what has been suggested and would like to move forward. Director Ramirez Holmes suggested that the item be referred to the Administrative Committee.

President Greci agreed that the item be referred to the Administrative Committee, but suggested that the Directors attend so their concerns could be heard.

General Counsel David Aladjem reminded President Greci that he cannot ask the Board members to attend the Administrative Committee meeting because that effectively would be holding a Board Meeting. Mr. Aladjem suggested that President Greci refer the item to the Administrative Committee so that they could act, and then bring it to the full Board for full discussion at a regular Board meeting. He also suggested that if the Directors would like to offer their thoughts, concerns and/or suggestions, they could do so at this time, and then the Administrative Committee can take those suggestions under consideration, deliberate at their meeting, and bring it back to the full Board for action.

Director Palmer mentioned that the Board already adopted the Guiding Principles for Board Members, but suggests keeping the overall policy more general. Director Ramirez Holmes agreed that the policy not be changed and not referred to the Administrative Committee, but she thought it got crazy when the Guiding Principles became the Policy with no discussion about the full document. She is okay with keeping the Policy as is.

Director Palmer said she doesn't think the Board needs to change the Policy because the Guiding Principles give enough guidance. Director Quigley said he is comfortable in keeping the Policy that was already adopted.

Director Ramirez Holmes reminded Director Quigley that it is not a policy, and the Board already adopted the Guiding Principles, and she suggested that if the Board wants to change the policy, she would like it to go to the Administrative Committee, and if the Board does not want to change the policy, she is okay with that and the Board can refer to what already exists in the Board Policy and the Guiding Principles.

Director Stevens moved that Item 5(a) be referred to the Administrative Committee and Director Ramirez Holmes seconded the motion. The item passed by a 5-1-1 vote with Director Palmer voting no and Director Figuers abstaining.

Item 5(b) Agreement with Oliver DeSilva, Inc., for Mitigation at the Arroyo Mocho Stanley Reach Riparian Restoration and Channel Enhancement Pilot Project

Director Quigley pulled item 5(b) to thank his friend Jim Summers of Oliver DeSilva, Inc., who was in the audience. He thanked him for his money and for a meaningful project for mitigation.

Jim Summers, Oliver DeSilva, Inc., stated that this is a fantastic program and he works a lot with regulatory agencies on different projects and thinks Zone 7 has created an excellent opportunity to create and enhance better areas within our flood control channels. Mr. Summers commended General Manager Jill Duerig, and staff members Carol Mahoney and Elke Rank for their time and effort in this program and he hopes other agencies will be encouraged to work this way.

Director Ramirez Holmes asked where the money for this project goes, and General Manager Jill Duerig stated that it goes back to the accounts from which it came, which was Fund 200.

Director Quigley mentioned that the Stanley Reach Riparian Restoration Project has been nominated for an ACWA award.

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

Resolution No. 15-50 Approved an Agreement with Oliver DeSilva, Inc., for Mitigation in the Arroyo Mocho – Stanley Reach. (Item 5b)

Item 5(c) Authorization for Commercial Septic System Use, Mitchell Katz Winery

John Howard, Livermore, stated that he lives just north of the subject property where the proposed septic tank will be installed. He said that over 200 people visit the winery every weekend and he is concerned about the waste these people will produce, and the winery's history of violations.

Director Stevens commented that if Zone 7 passed the Nutrient Management Plan, he doesn't believe they could have this type of facility. He also stated that Zone 7 doesn't regulate septic systems, Alameda County does. He continued that Mitchell Katz has met the requirements of Zone 7 and that Zone 7 doesn't have the capability to reject it.

General Manager Jill Duerig added that the proposed septic system would in fact comply with the Nutrient Management Plan if it were in place.

Director Palmer asked who oversees the zoning in terms of what type of land use is appropriate, and was told that the County does. Director Palmer asked if the County was okay with having a large commercial venue. Mr. Howard stated that the County encouraged him to come to the meeting. Director Palmer stated that if there is a problem with this facility then perhaps he should take it up with the County in terms of their land use zoning.

General Manager Jill Duerig stated that staff is recommending the Board approve the proposed septic system only and that it has nothing to do with use permits or other compliance issues. Actual permits will be issued by the County.

Director Figuers commented that the Buena Vista area has been a groundwater problem for decades with nitrate loading from all of the septic systems. He said that the best thing to do would be to connect to the City's sewer system.

General Manager Jill Duerig stated that it is not currently possible which is why when staff recommend adoption of such a program, it is contingent that when and if a public sewer is extended to within 200 feet of any onsite dwelling it shall be connected to the septic systems and the septic system shall be abandoned. Ms. Duerig also stated that another septic sewer issue is outside of Pleasanton in the Happy Valley area. There has been a moratorium on any septic tanks for quite a while in that area. LAFCo is trying to encourage the City of Pleasanton to put city sewers in that area. Ms. Duerig also said Zone 7 would support this if Zone 7 could convince the City of Livermore to do something similar but it would likely be an expense to the residents.

Director Stevens asked if the Buena Vista residents could work with LAFCo like the residents of Happy Valley. Ms. Duerig said that LAFCo could encourage the City to extend city sewer services in that direction.

Director Ramirez Holmes stated that Resolution No. 1165 prohibited any new commercial developments unless an exception is granted by the Board. She asked about the process and how it would work if Zone 7 denied the permit for the septic system. Ms. Duerig stated that staff would put together a new proposal for the board. Director Ramirez Holmes asked if the process was to mitigate as opposed to denying the request. Ms. Duerig stated that the Board also adopted a decision tree approach where if risk of contamination to the groundwater basin is low enough to be acceptable, the project is approved. If the Board couldn't support that finding and voted against it, Zone 7 staff would have to work with Mitchell Katz Winery to try to come up with an alternative where the risk to the groundwater basin was low enough to be acceptable. It would not shut them down, but it would mean we would go back to the drawing board to come up with an alternative.

Director Palmer stated that she understands the traffic and zoning of the land use issues should be, and that the Board needs to follow the decision tree that has already been put in place.

Mr. Howard stated that they want to make sure that the septic tank is of the highest quality and standard that the County allows.

Director Figuers asked if Zone 7 has ever opened formal negotiations with the City of Livermore to install a sewer main so the neighbors could connect to it. Ms. Duerig stated that they have had discussions regarding Concannon Vineyard's new building. Regional Board was party to those discussions and it was written into their waste discharge requirements which are the state equivalent of

an NPDES permit. Concannon was supposed to seek an extension of the City sewer. To date, the City of Livermore has not been tremendously supportive of that, but the discussions are ongoing.

Tim Johnston, Livermore, stated that he is concerned that there are two houses on the property and that they have exceeded the rural residential equivalent (RRE) of 1 house per 5 acres.

Director Ramirez Holmes stated that the property is on 9.9 acres so they are allowed two dwellings because it is one dwelling per 5 acres. Kurt Arends, Assistant General Manager, Engineering, stated that in the application for the septic tank, it states that there are two houses with a total of 3 bedrooms, which essentially are not equivalent to 2 full-sized homes.

President Greci stated that the County determines the amount of leach line based on the number of bedrooms.

Director Stevens moved for approval and Director Quigley seconded the motion which was approved by a voice vote of 6-0-1 with Director McGrail abstaining.

Resolution No. 15-51 Authorization for a Commercial Use of a Septic System for Mitchell Katz Winery located at 2481 Buena Vista Ave., in South Livermore (Item 5c)

Item 6 - Staffing Update

Plant Mechanic Joe Cerro was selected as January Employee of the Month for his diligence and skill in maintaining complex facilities such as the Mocho Groundwater Demineralization Plant. Joe was present and the Board applauded him.

Item 7 – Committee Reports

The minutes of the February 5, 2015, Retailers/Wholesaler Liaison Committee Meeting are still pending. General Manager Jill Duerig stated that Dan McIntyre, who normally provides the minutes for the Retailers/Wholesaler Liaison Committee, has recently switched employers from the City of Livermore to the Dublin San Ramon Services District, which could be the reason the minutes are delayed.

Item 8 - Reports - Directors

a. Verbal comments by President

President Greci said that in the last week and a half he has been involved in activities with Dublin San Ramon Services District, attending two of their Board meetings with General Manager Jill Duerig. President Greci feels it is necessary to improve interactions and communications between the two boards. He encourages his fellow colleagues to take an active part in getting to know DSRSD's board members better.

b. Written report by Director Quigley

c. Verbal Reports

Director Palmer commented that she, too, has been in contact with some of DSRSD's board members. She agrees that communication with their board is important. She said she will continue to work with their board at the Tri-Valley Liaison Committee meetings.

Director Quigley added that he has also been talking to DSRSD board members and he shares their willingness to communicate with our board. Director Quigley also passed out handouts from his recent trip to Washington, D.C., and a pamphlet on the Patterson family legacy. He also mentioned that he will be attending the ACWA Region 5 event at the Santa Clara Valley Water District on March 22nd and 23rd.

Item 9 - Items for Future Agendas - Directors

Director Ramirez Holmes would like the financial impact on the water transfer from Yuba County to DSRSD and Item 10(b) Monthly Budget Report, placed on the next Finance Committee meeting on April 23rd.

Director Quigley was pleased to see Item 10(f) Update on Zone 7 Vehicle Fleet on the Agenda. Director Quigley mentioned that several years ago he brought up on-board tracking devices. He said that several water agencies are using them for safety and security issues. Director Quigley would like the Fleet Oversight Group (FOG) to provide a report on the pros and cons for use in Zone 7 vehicles.

General Manager Jill Duerig stated that this has been discussed before and she was at ACWD when they had those devices installed. She said it was a request from the unions as a safety measure, but there has been no such proposal by the unions at Zone 7. If management thinks it would be beneficial, Zone 7 would have to embark on meet and confers with all of the bargaining units. Ms. Duerig said that this has been reported to the Board previously. Director Quigley stated he would like it to be revisited since it has been several years.

Item 10 - Staff Reports (Information items. No action will be taken.)

- a. General Manager's Report
- b. Monthly Budget Report
- c. Legislative Update
- d. Outreach Activities
- e. Drought Update
- f. Update on Zone 7 Vehicle Fleet
- g. Verbal Reports

General Manager Jill Duerig played a short video put together by Morrison & Associates regarding their Schools Program. She also mentioned that four Zone 7 employees will be retiring at the end of March, including Board Secretary Judy Rector.

Director Palmer thanked and applauded Judy for all her help over the years. President Greci added that there is a lot of interaction between the Board and Judy, and Judy does a lot of work for the Board. He continued that he really appreciates Judy, will really miss her, and thanked her for all of the work she has done for him and the other Board members.

General Manager Jill Duerig also stated that Zone 7 has a partnership with East Bay Regional Park District (EBRPD), Santa Clara Valley Water District and the Alameda County Water District for a Quagga Prevention Program at Lake Del Valle. EBRPD put in for a grant to save all four agencies some money and EBRPD was just informed that the program received \$200,000 in grant money from the State so Zone 7 won't have to pay the full amount this year.

Director Ramirez Holmes asked about item 10(f) - Update on Zone 7 Vehicle Fleet. She wanted to know if the six gas-electric vehicles added to the fleet were additions or replacements. Assistant General Manager Kurt Arends stated that they were replacements for old sedans. Director Ramirez Holmes wanted to know how many employees Zone 7 had for the pool of 45 Class C cars and trucks. Mr. Arends stated that Zone 7 has over 100 employees.

The Board went into closed session at 8:18 p.m.

Item 11 - 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): 2 cases
- (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 12 - Open Session and Report Out of Closed Session

The Board came out of Closed Session at 10:05 p.m. and President Greci reported there were no reportable actions taken in closed session.

Item 13 - Adjournment

The meeting was adjourned at 10:06 p.m.