

MINUTES OF THE BOARD OF DIRECTORS **CORRECTED 4-17-13**
ZONE 7
ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

REGULAR MEETING
March 20, 2013

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

DIRECTORS: SANDS FIGUERS (arrived late)
 JOHN GRECI
 A J 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
 CAROL MAHONEY, SENIOR GEOLOGIST, INTEGRATED PLANNING
 ELKE RANK, ASSOCIATE WATER RESOURCES PLANNER, INTEGRATED
 PLANNING
 JUDY RECTOR, BOARD SECRETARY

COUNSEL: DAVID ALADJEM, DOWNEY BRAND

Item 3 - Citizens Forum

Christy Stanker introduced herself to the Board as the field representative for the Tri-Valley from Assemblywoman Joan Buchanan's office.

Gary Purnell, Pleasanton, expressed concern on why Zone 7 would disassociate from Alameda County and assume all of the flood control when Alameda County can help us. Also, why would we want to take on the responsibility of supplying water to Contra Costa when Zone 7 has problems supplying water now? President Palmer asked him to leave his name and e-mail address so he could be notified of future meetings concerning Zone 7's independence.

President Palmer welcomed students from her AP Environmental Science class who chose to attend the Zone 7 Board meeting to fulfill a class assignment to attend a meeting with environmental and political impact.

Item 4 - Minutes of the Regular Meeting of February 20, 2013

President Palmer had two corrections to the February 20th minutes: Item 8 – page 3 - the word “overlooking” should be “overseeing”; Item 11, Verbal Staff Report by Ms. Duerig - page 5 - BAFPPA should be BAFPPA.

Director Ramirez Holmes asked that her statement in Item 8 - Committees - page 3 - be changed from “expressed concern regarding the Water Resources Committee” to “concern with the task force.”

Director Quigley moved that the corrected minutes be approved and Director Greci seconded the motion. The corrected minutes were approved by a voice vote of 6-0-1 with Director Figuers absent.

Director Figuers arrived at 7:08 p.m.

Item 5 - Consent Calendar

President Palmer pulled Item 5 (a) for discussion. Director Quigley offered support for continuing membership in the Western Recycled Water Coalition since regional water reliability requires a diversified water portfolio which includes recycled water. The City of Livermore and Dublin San Ramon Services distribute recycled water but Zone 7 does not.

Public Comment:

Margaret Tracy, former Zone 7 Board member and Livermore resident, expressed concern regarding treating wastewater and using it for landscape irrigation. She noted that in coastal areas toxics can be flushed out by ocean or river action. Zone 7 has a nearly closed groundwater basin. Citizens voted on recharging with recycled water of wastewater origin and it was voted down. She feels it deserves public discussion, a public hearing, and an opportunity for citizens to express their views. She urged that this item be removed from the consent calendar and placed as an agenda item on the discussion calendar as a public hearing.

President Palmer said that since Zone 7 is not actively distributing recycled water, the action for the item is for Zone 7 to be an Associate Participant in the Coalition, not a full participant, but it allows staff to keep in touch with what is happening with recycled water in California. President Palmer referred to the Groundwater Management Advisory Committee (GMAC) established in 1998 and the Salt Management Plan developed in 2004 so Zone 7 has been addressing toxics and contaminants of emerging concern.

All of the Board members contributed to the discussion of this item. Director Stevens stated that the GMAC vote was to reject recycled water injection and the proper venue to bring this up is with the City of Dublin or City of Pleasanton that use recycled water for irrigation. Director Ramirez Holmes asked if it is just coming back to the Board now because of a change in the name. Ms. Duerig responded in the affirmative and added that the coalition is doing a lot to help with regional funding and some of Zone 7's retailers are requesting funding for projects so membership in this coalition supports our retailers and the overall regional water supply portfolio. President Palmer feels that membership is an inexpensive way to stay on top of the issues because if “you don't sit at the table, you don't have anything to say.”

Margaret Tracy is also concerned about the cumulative impact on the groundwater basin in our valley and pollution getting into the drinking water. She feels the resolution implies support. President Palmer reiterated that the resolution is about membership in the Coalition.

Director Figuers and Ms. Tracy discussed treating waste water and removing drug residue before the water is used for landscape irrigation. These are the concerns that she has and she wants to make sure Zone 7 is aware of the issues.

Ms. Duerig reassured Ms. Tracy that a required part of the master recycling water permit involves updating the Salt Management Plan, additional groundwater modeling and adding an evaluation of both

nutrients and chemicals of emerging concern. The Plan is being updated to make sure water recycling is done in a manner that is protective of the health of the people in the valley.

General Counsel David Aladjem added that the State Water Resources Control Board adopted a state water recycling policy. A blue-ribbon task force set standards for monitoring and accountability on a state-wide basis so all recycled water projects in the valley have to be in compliance and use scientifically-approved measurements.

Peggy Purcell, a past member of the GMAC, distributed an article to the Board, "Groundwater Problems Caused by Irrigation with Sewage Effluent" (H. Bouwer, October 1, 2000). She also requested that Item 5(a) be removed from the consent calendar and that there be a staff report on irrigating with sewage water plus a public hearing to make the public aware of the exposure - not direct injection - but through irrigation. She is looking to Zone 7 for stewardship of the groundwater basin and keeping it safe for the future. She expressed her concerns with federal funding for recycled water injection.

Because his election platform was based on the premise of the best water quality possible, Director Machaevich addressed the issues and feels that the public does not want water rate increases but that higher rates could ultimately cover the cost of membrane filters or ozone treatment to address drug toxins. He recommended moving forward with an Associate Participant membership while focusing on making sure a high water quality is maintained for the public.

Director Ramirez Holmes thinks groundwater quality is a top concern in the Strategic Plan and to be a member of this Coalition is an opportunity for public information and possibly a topic for the Liaison Committee since our retailers are moving in this direction. She is supportive of more public discussion on the issue but acknowledged that this item is about membership in the Coalition.

Director Greci expressed appreciation to Margaret Tracy as a steward of the groundwater basin and acknowledged Peggy Purcell, too, but reassured them that the Board would not do anything irrational and to not be afraid of the Coalition. It is just an opportunity to associate with people concerned about the quality of water and the Board will not do anything to jeopardize the basin, but membership in the Coalition allows for a stronger voice for funding and communication.

Since there were no further public comments or discussion, Director Quigley moved and Director Machaevich seconded the motion. Resolution No. 13-4258 continuing membership in the Western Recycled Water Coalition and authorizing the General Manager to execute the Memorandum of Agreement was approved by a roll call vote of 7-0.

Item 6 - Staffing Updates

Item 6a - Employee of the Month Recognition

Jesus Bautista, Construction Maintenance Laborer in the Maintenance Section, is the Employee of the Month for January. Jesus is known to be a hard working employee with a positive outlook. Since Jesus was present, the Board was able to applaud him in person. President Palmer noted how pleased she is to have him at the Board meeting.

Item 7 – Arroyo Mocho Stanley Reach Riparian Restoration and Channel Enhancement Project

a. CEQA Compliance and Project Approval

Ms. Duerig noted that a letter was received by Zone 7 from Alameda Creek Alliance supporting the Arroyo Mocho Stanley Reach Riparian Restoration and Channel Enhancement Pilot Project. Copies were available for the Board and public.

Elke Rank, Associate Water Resources Planner, presented a slide presentation with project location and details along with artist renderings of the outcome of the project. The purpose of the project is to demonstrate the feasibility of transforming a traditional earthen trapezoidal flood protection channel in an urban setting into a vegetated stream reach exhibiting natural fluvial and ecological function, while also maintaining its core functionality for flood protection, local sediment management, and groundwater recharge.

All procedures were followed for preparing a proposed negative declaration or mitigated negative declaration for a project subject to the California Environmental Quality Act (CEQA) including an Initial Study/draft Mitigated Negative Declaration (IS/MND) which was prepared and distributed for public comment. Staff determined that the project would not have a significant adverse impact on the environment after implementation of mitigation measures.

Director Figuers questioned where the riparian growth is in the thirty-year-old channel but Ms. Mahoney replied that spraying has impacted growth. Director Figuers voiced concerns about the project and recommended that tree limbs and woody debris dams should not be removed after construction because they are a critical part of riparian growth and they trap sediment and provide places for fish to hide.

Director Quigley expressed concern about reducing velocities and watering riparian species with recycled water for the first year or two so they don't die. He also discussed opening the closed bridge across the channel and the top of bank Zone 7 owns to be complimentary to the Iron Horse Trail alignment with the City of Livermore's trail system. Ms. Mahoney responded that a letter of support had been sent to the City of Livermore to obtain grant funding for such improvements.

Director Machaevich said the Directors consider several different aspects of the project including how it will help cost-wise in the future putting in natural structures instead of using man-made structures. He has additional questions for staff but encouraged the public to ask the Board members if they have questions and they will get back to them.

Public Comment:

Randy Werner had a question about the low flow channel going through housing but Ms. Rank assured him there would be no change to that channel.

Ms. Mahoney said the project would be brought to the Board for approval of the actual contract for construction next month so more technical details will be available at that time.

Ms. Duerig stated that there is no intention of bringing recycled water in there to establish plants. Ms. Rank said that at the pre-bid walk, there was a comment that they assumed recycled water will be required but she said "no".

President Palmer said the whole corridor is part of the City of Livermore and would be a benefit to the full community. It is a trial to see if natural systems are better and more cost effective than hardscape structures.

Director Quigley mentioned that one of the Granada High School clubs supports Granada native gardens and other volunteers could help in this Reach.

Director Stevens moved and Director Machaevich seconded the motion finding that the IS/MND contains a complete, objective and accurate reporting of the environmental impacts associated with the project and reflects the independent judgment and analysis of Zone 7. Resolution 13-4259 was passed by a roll call vote of 6-1 with Director Figuers voting no.

b. Agreement with ACSPA for Mitigation on Arroyo Mocho - Stanley Reach

Ms. Duerig noted that Item 7(b) has a revised summary sheet. By approving this agreement with ACSPA, no funding is currently needed. Staff will return to the Board with dollar amounts for actual construction expenses after the bid.

Ms. Rank discussed the background of Project R.3-5 (Stanley Reach) for stream channel enhancement, increased riparian vegetation, and fish passage improvements. Zone 7 will perform all the construction, monitoring and maintenance and the mitigating partner would pay their respective share in order to meet their mitigating needs. ACSPA is currently the only identified mitigating partner for this project.

Ms. Rank provided additional slides and a handout with details. Staff's recommendation was to adopt the proposed resolution.

Director Figuers expressed his views regarding the project and urged the Board vote against it.

Director Stevens asked about the requirements to have mitigation for public good and using tax dollars.

General Counsel David Aladjem responded that there are two different situations. When you are doing green-field development where there is habitat which you are turning into houses, mitigation is for the public good and the laws of CEQA require that you analyze the effects on the environment and mitigate them. Other repair projects require analyzing whether it will affect the environment, i.e., repairing a sidewalk, because it is an existing facility and it will be improved. If it does not have an impact on the environment, there is a streamlined procedure to go forward with projects without these obstacles. Zone 7 is doing riparian restoration but the effects of the actual construction must be addressed.

Director Stevens responded that the channel is not impacted by the bridge and green-field is not being taken up so why are tax dollars going into mitigation, and why \$268,000 for mitigation which causes taxes to go up. It doesn't make sense to him. Ms. Duerig clarified that the County's mitigation of the Stoneridge Bridge includes additional concrete on side walls to support the bridge structure which results in a loss of habitat that must be mitigated.

Director Ramirez Holmes asked if Zone 7 normally goes out to bid on construction before being approved by the Board. Ms. Duerig said the Board approves the project concept under CEQA and various findings and impacts which allow staff to finalize the specifications for bid and required permits and then staff comes back with a contract to be approved. That is why the Board has a revised cover sheet regarding funding. President Palmer confirmed that this resolution is about entering into an agreement with ASPCA.

Director Greci moved and Director Machaevich seconded the motion authorizing the General Manager to negotiate and execute the agreement between Alameda County Surplus Property Authority (ACSPA) and Zone 7 for mitigation on Arroyo Mocho - Stanley Reach. Resolution 13-4260 was passed by a roll call vote of 6-1 with Director Figuers voting no.

Item 8 - Committees - None.

Item 9 - Reports - Directors

a. Verbal comments by President

President Palmer handed out notes regarding her trip to Washington, DC, for the ACWA Meeting February 26-28, 2013. She chose four presentations to summarize: Nancy Sutley, Chair of White House Council on Environmental Quality; James Hanon, U.S. Army Corps of Engineers; Jason Albritton, Senate Environment and Public Works Committee staff member; and Roger Cockrell, staff, Subcommittee on Energy and Water Development, Committee on Appropriations, United States Senate.

Regarding storm and wastewater infrastructure, Nancy Sutley noted that restructuring creeks and wetlands is often more cost effective than traditional concrete infrastructure.

President Palmer also attended the meeting with Supervisors Haggerty and Miley at the Alameda Board of Supervisors Transportation and Planning Committee.

b. Written report by Director Stevens

Director Stevens asked that for the record he wants to summarize the points in his written summary. Supervisors Haggerty and Miley say separation should not unduly impact water rates; bargaining employees will not be affected; flood control and emergency response will not be impacted; be comprehensive, not piecemeal; minimal fiscal impact on County; flood control not be impacted adversely; separation should occur on a single date; Dougherty Valley not affected; and go through the LAFCO process as a means to educate the public. Director Ramirez Holmes clarified that the Supervisors requested that Zone 7 go through the LAFCO process.

c. Written report by Director Quigley

Outreach packets on restoring the Delta were delivered in Washington to our legislators. They appeared interested and hopefully will bring funds home for projects.

d. Other Directors' Verbal Reports

Director Ramirez Holmes reported that she will follow-up with a written summary of these meetings: On March 5th she attended an ACWA Legislative Symposium in Sacramento where the topics were water bonds, revisiting ADA, property taxes and CEQA modernizations. She also attended the March 5th Board of Supervisors committee meeting and the East Pleasanton Specific Plan Meeting where Zone 7 Assistant Geologist Colleen Winey gave a report. On March 13th she attended a CSDA webinar on Legislative Round-Up of the 2013 legislature including critical issues for the legislature such as property taxes and voter threshold, special district reserves, pension, transparency, CEQA and green revenues. It was very informative to attend the ACWA Legislative Symposium and the CSDA Legislative Round-Up webinar because bill numbers were assigned a few weeks later.

Item 10 - Items for Future Agenda - Directors - none.

Item 11 - Staff Reports (Information items.)

- a. General Manager's Report
- b. Communications Outreach Activities
- c. Legislative Update
- d. Report on Water Sales and Connection Fee Revenue
- e. Verbal Reports - none

President Palmer questioned how large the sink holes were at Lake I as mentioned in the General Manager's Report (Item 11 a). Ms. Duerig said she would get back to her with the information.

Director Ramirez Holmes noted the inclusion of the new program on installation of toilets for the water conservation part of the Zone 7 website and feels that this should be celebrated. She also requested that upcoming events be added to the Communications Outreach Report.

President Palmer thanked Director Figuers for requesting that staff include the addition he requested at the end of Item 11 (d).

The Board went into Closed Session at 8:28 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 Gov't Code Section 54956.9(d) (2): 1 case.
- (c) Conference with Legal Counsel -- Potential litigation pursuant to Gov't Code section 54956.9(d) (3): 2 cases.
- (d) Conference with Real Property Negotiator:
Property: APNs 99-525-2, 99-550-2-3, 99-550-3-2, 99A-2700-2-5, 99A-2700-6-6, 99A-2700-9- 8, 99A-2700-10, 99A-2700-11-3, 99A-2700-12-6, 99A-2700-12-7, 99A-2420-4-13, 96-420-2, 96-420-3, 96-429-6, 99A-2701-1, 99A-2701-2, 99A-2701-3.
Agency negotiator: G.F. Duerig
Negotiating parties: Patliv; PTLM, Inc.; Henry H. Patterson Trust, and Charles Edwards Engs
Under negotiation: Price and terms of payment.

Item 13 - Open Session and Report Out of Closed Session

The Board came out of Closed Session at 10:08 p.m. There was no report out of closed session.

Item 14 - Adjournment

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