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

Corrected 5-16-13

REGULAR MEETING
April 17, 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 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 CAROL MAHONEY, SENIOR GEOLOGIST, INTEGRATED PLANNING COLLEEN WINEY, ASSOCIATE GEOLOGIST, GROUNDWATER JAVIA GREEN, STAFF ANALYST, FINANCE RHETT ALZONA, SENIOR ENGINEER, FACILITIES ENGINEERING JUDY RECTOR, BOARD SECRETARY
COUNSEL:	DAVID ALADJEM, DOWNEY BRAND

Item 3 - Citizens Forum

Margaret Tracy, former Zone 7 Board member and Livermore resident, added to her comments from last month's Board meeting saying that she hoped all Board members had a chance to read Peggy Purnell's letter. The specialist referenced in the letter said that with the process of using treated waste water for irrigation, within 50 years the whole basin will be contaminated. Ms. Tracy feels that all toxics identified by Zone 7 staff that exist within the basin need to be removed and she emphasized maintaining and protecting the quality of groundwater.

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

Director Ramirez Holmes had two corrections to her statements on Page 6 of the minutes.

Director Quigley moved to accept the corrected minutes and Director Ramirez Holmes seconded the motion. The corrected minutes were accepted by a voice vote of 6-0 with Director Figuers absent.

Item 5 - Consent Calendar

There were no public or board comments on the three consent items. Director Ramirez Holmes moved for approval and Director Greci seconded the motion. There was a roll call vote of 6-0 with Director Figuers absent and the following resolutions were approved:

Resolution 13-4261	The Board of Directors of Zone 7 supports and declares May as Water Awareness Month. (Item 5a)
Resolution 13-4262	Authorize the General Manager to negotiate and finalize the Easement Deed and the Board of Supervisors approve granting said Easement Deed and authorize the President of the Board of Supervisors to execute grant real property rights to PG& E in Exchange for the Quitclaim of an Underground Electric Line. (Item 5b)
Resolution 13-4263	Request and recommend that the Board of Supervisors grant real property rights required by the Right of Way Contract and approve the transfer of those rights in connection with the State Route 84 Widening Project in Livermore. (Item 5c-1)
Resolution 13-4264	Authorize the General Manager to accept said quitclaim deed from PG&E, execute a certificate of acceptance and have it recorded at the Office of the Recorder of Alameda County. (Item 5c-2)

Director Figuers arrived at 7:06 p.m.

Item 6 - Staffing Updates

Item 6a - Employee of the Month Recognition

At the request of the Employee of the Month, the item will be continued until next month's Board meeting.

Item 7 - Chain of Lakes Interim Operations Plan

Colleen Winey, a member of the Chain of Lakes planning team, and the Zone 7 representative to the East Pleasanton Specific Plan Task Force, gave a presentation to the Board and provided a handout showing the Chain of Lakes' location. Currently Zone 7 owns Lake I and Cope Lake. Lake H is on track to be turned over to Zone 7 in 2014. She then presented an overview of the methodology for the more formal land use planning for Cope Lake and Lakes H and I because the City of Pleasanton is currently developing the East Pleasanton Specific Plan (EPSP) and hope to have it completed by the end of the year.

Ms. Winey explained the scorecard methodology used to evaluate lake uses including water management and habitat restoration. The end result is to give a quantitative evaluation that puts "0" as the least compatible and "5" as the most compatible use. Once the evaluation is done, data scoring the lakes will show which lakes are most compatible for certain uses and which uses may not be the best choice for each lake.

Included in the presentation was a schedule of public meetings along with estimated milestones. A preliminary draft of the plans for Lake H and I is anticipated for June and the end of year for the EPSP.

Ms. Mahoney added that the purpose of this agenda item was not to create an Interim Operations Plan immediately to create a methodology to evaluate the multi-benefits of the lakes and give the Board a preliminary look at uses for the lakes. President Palmer commented that this is a good step towards helping the City of Pleasanton find out if their ideas are compatible with reality for the use of the Chain of Lakes.

Director Ramirez Holmes asked when the numbers will be final for discussion. She requested better outreach to the public and community resources such as environmental and recreation groups so they can weigh in on what Zone 7 is doing. She also asked that it be noticed more broadly and make an effort to talk to the public about the subject before it comes back to the Board. She is pleased with the progress of making the lines of communication more clear with the EPSP Task Force.

Director Quigley is concerned that it is named an Interim Operations Plan but it is Interim Evaluation Plan. He suggested adding a line for Education and Outreach to the table on Page 4 because this is listing the attributes of the Chain of Lakes but nothing on operations. The operation of the Chain of Lakes was determined in 1981 and the Stream Management Master Plan (SMMP) integrated community attributes, gravity, plumbing, and thru-put resources as well. The SMMP is simple and functional but this staff report of text and tables does not include the primary mode of operations for the Chain of Lakes. Staff is looking for acceptance of the scoring system based on attributes rather than operations. There needs to be a description of how the Chain of Lakes will be operated to capture water; how will Zone 7 capture more Del Valle water for the Chain of Lakes; and how will the Chain of Lakes use integrated water such as the South Bay Aqueduct, urban runoff, and possibly potential streams of recycled water for a diversified portfolio. The public needs a description of how the Chain of Lakes will be operated and it should include metrics regarding the volume, how water will be collected, and the average quality of water.

Ms. Mahoney said the intent from staff was to gather feedback on methodology and do more of an evaluation. They wanted to offer the Board an opportunity to update the 1981 rough description of the Chain of Lakes which didn't designate specific lakes for specific uses. The goal is to identity uses for the EPSP.

Director Greci stated that it is too premature to determine metrics because on the flood control side, there are other downstream water rights on arroyos we don't even know about yet so we need a study of the quarries and the best ways to use them. President Palmer agrees with the approach to find out the characteristics of lakes before you can determine uses.

Public Comment:

Kay Ayala, a Pleasanton resident and a member of the EPSP Task Force, spoke as a Pleasanton citizen and referred to a letter from Connie Cox, President of the Valley Trails Homeowners Association, which stated that homeowners in the Valley Tails and other neighborhoods near arroyos are concerned about flood control insurance and the potential threat of flooding. Ms. Ayala urged Zone 7 to be proactive in telling the task force what the agency needs to ensure future water quality and flood control in the Chain of Lakes.

Ms. Duerig replied that the SMMP does address regional flood protection using the Chain of Lakes and when we talk about uses, we are using the SMMP effort as a basis for evaluating potential flood storage in the various lakes. We have defined the need for a certain amount of storage during peak flow events so the downstream channels aren't forced over their capacity and water is diverted into the Chain of Lakes during those high-flow events then later released. The SMMP allows us to model the needs and those models are being updated. The Master Plan adopted by the Board in 2006, along with the associated EIR, is serving as a basis for our flood protection evaluation.

President Palmer says Zone 7 has developed what the needs are and what Zone 7 needs to do to protect the downstream areas from flooding, but make sure the leadership, public outreach and education are there, too, because we have to make sure that the flood protection and water quality are protected.

Director Figuers' main concern is the "breeding and hatching of fish in the wild to enhance the natural population" but 20 years from now he feels the operations of the Chain of Lakes will be severely compromised. It was never a through-going stream but we are trying to create a condition which never existed in nature.

Director Ramirez Holmes added that when Pleasanton started their process on the east side based on development and other things, it was a little ahead of Zone 7's timeline. It has been in Zone 7's Strategic Plan for visioning and the Board in their strategic planning last summer asked for an accelerated timeline. When the EPSP Task Force started and alternatives came out and visioning, we asked for it sooner than later. We do hear you and have also been working on it which is why it is coming before the board a little ahead of our timeline and why we are trying to push up the timeline to review and give appropriate feedback to the task force.

Ms. Duerig reminded everyone that the Stream Management Master Plan (SMMP) is posted on the Zone 7 website.

Item 8 - Interim Reserve Policy

Tom Hughes explained that the reason this is called an Interim Reserve Policy is that last year the Board directed staff to review the reserve policy and see if it needed to be updated. Our consultant, Robert Porr from Fieldman Rolapp & Associates, added that when looking at factors involved with creating a reserve policy and dealing with our retailers, we felt it was best to use the term "interim" because there are some questions we cannot answer yet about independence and other factors so it may change in the next year or two.

Staff Analyst JaVia Green presented the draft interim reserve policy agenda item to the Board and explained that the goal at this meeting is to have the Board adopt a resolution approving the draft policy. She provided a handout to the Board and reviewed the reserve policy objectives to establish prudent and fiscally responsible practices, provide a framework adaptable to change, integrated processes that take into account our rate setting process, the CIP process and providing adequate funding for Zone 7's water system as well as flood protection.

The Water Enterprise Fund provides Operating funds and is made up of four separate reserves: Rate Stabilization Reserve; Operating Reserve; Emergency Reserve; and the Drought Contingency Reserve. In addition there is the State Water Project Operating Reserve, Flood

Control Reserves, Water System Capital Reserves, and the Flood Protection & Stormwater Drainage Development Impact Fee Fund Capital Reserve.

Director Figuers inquired about the policy for replenishment of the Rate Stabilization Reserves. If we pull from the Rate Stabilization Reserve and use money and/or have a bad drought and pull money from the Drought Contingency Reserve - how many years will it take to bring it back to the level we want? Director Ramirez Holmes questioned what about when there are surpluses or extra money in the reserves.

Ms. Duerig explained that the board policy will have options to repay by increasing water rates to pay in one year or increase over five years, hold steady, or do inter-fund borrowing.

Director Figuers asked what is the historical pattern? How many funds have we dipped into? Ms. Green responded that we had a surplus last year and were able to keep water rates at 0%. Ms. Duerig added that we dipped into flood operating budgets and really depleted reserves but it has occurred in almost all the funds for various reasons. President Palmer noted that is why the Board can move funds around if needed and Ms. Green added that it is why we have minimums and maximums for the reserves.

Director Quigley asked if the Hacienda Owners Association is comfortable with the comments that were sent to them. Mr. Hughes said he had provided comments and offered to meet with James Paxson and the City of Pleasanton but staff is still working with the retailers. Director Ramirez Holmes added that Mr. Paxson still has a list of concerns and will follow-up with questions and issues to be addressed when the long-term financial plan is developed.

Director Stevens asked about industry standards. Mr. Hughes said they looked at the best industry practices and benchmarks for other industries. Mr. Porr explained that they gathered information by rating agencies and compared reserve balances with debt. Part of financial planning is a historical perspective of where money was used to fill in gaps.

Director Machaevich complimented staff on doing a fine job making the first step of where we are going and getting the numbers for minimums and maximums. Lots of questions need to be asked and answered as we move forward with long-term financial planning and tweak the interim reserve policy as needed.

Director Ramirez Holmes inquired about the timelines for using an interim policy. Mr. Hughes answered that the interim policy, if approved, will be in effect the day after the Board meeting but it takes at least two years to create a final long-term financial plan.

The Directors discussed if the reserve policy would be reviewed by the Board annually at budget time, if all the current reserves were within range based on current balances, where we ought to be, or are the ranges based on what we have as balances now?

Ms. Green said staff is working on the FY 13/14 budget and when the audit is adopted in October/November, the new balances will be available. Also, the new financial software will allow staff to run more frequent reports on total balances during the interim phase so the Board can get feedback regularly on total balances but she is not sure if it will show reserve allocations.

Director Figuers commented that the Finance Committee will get a better handle on the flow of money and what is needed and not needed, the mechanics of reserves, but how we actually operate is a different question.

Randy Werner, City of Livermore and Dan Martin, City of Pleasanton both made comments. Mr. Martin said that that in working with staff on reserve policies, an interim policy is critical and if it had been a permanent policy, they would have stronger opinions about what they are okay with and what they are not. They feel it was a step forward in the right direction from the original reserve policy and reasonable for the interim until long-term financial planning is done. The retailers want to help Zone 7 develop the mechanisms on when to use reserves.

Director Quigley moved and Director Figuers seconded a motion to establish an Interim Reserve Policy. Resolution 13-4265 was approved by a roll call vote of 7-0.

Item 9 - Award of Contract for the Arroyo Mocho Stanley Reach - Riparian Restoration and Channel Enhancement Pilot Project

Kurt Arends reminded the Board that there was a Stanley Reach CEQA presentation last month and Rhett Alzona showed a slide presentation regarding the project location and asked the Board for approval for the award of the contract to Applied Water Resources, Inc., the lowest responsible bidder, for the construction part of the project.

Director Ramirez Holmes expressed her concern regarding the cost of the project and said she does not feel a piecemeal approach is best. The budget and CIP was $500,000 so when the Board agreed to the item last month, there was no indication that there would be another $1.7 million contract.

Ms. Mahoney said staff had looked for a pilot project that demonstrates goals and a way to initiate a restoration project to show that an existing trapidozial channel can be modified. The project was developed assuming mitigation partners like Alameda County Transportation Commission (ACTC) and Cal Trans in exchange for mitigation credits. This $1.7 million will buy Zone 7 mitigation credits for future projects. ACTC and Cal Trans projects evaporated or had legal issues and they were unable to remain as partners. Phase 2 is an opportunity to mitigate with others. If plans are already worked out and a budget is available, Zone 7 would go ahead and design it for mitigation credits but we do not have funding unless a grant or mitigating partner shows up. If Zone 7 did not use the credits, they might be able to offer them to others in the future. Because of approval of last month's agenda item, Alameda County Surplus Property is getting some credits but Zone 7 is getting the majority. Ms. Mahoney stated that staff continued the design of the project they had started prior to finding out that partner funding didn't work out.

A discussion regarding the value and need for mitigation credits continued between Board members and Zone 7 staff. Mitigation credits can be banked and they do not expire.

President Palmer asked what happens to Phase I work if there aren't any partners for Phase II? Ms. Mahoney answered that downstream there is another dragon's tooth structure exactly like the first one and Zone 7 could provide plans for another mitigation partner and someone else could complete Phase II - both phases are fish passage barriers for Alameda Creek.

Director Figuers recommended that the project be withdrawn because the nature and scope have changed and the value of the credits are unknown for future projects.

Director Ramirez Holmes said the Board should be contacted before more work is done when things change such as losing the mitigation partners and now the Board has to decide if they shelve the project or move forward and spend more money. She asked about the scope of the whole project and if there is a written project plan showing how much each phase will cost.

General Counsel David Aladjem reminded the Board that the Engineers' estimate for the project before staff went out to bid was $2.2 million and the cost of the project is $1.7 million. The bigger question is what is the value of the credits and does it make sense for the Board to go forward? He gave examples of resource agencies and the value of the mitigation credits to show that creating credits is an obvious benefit for the agency.

Director Greci added that the choices are do it or don't get projects done because incomplete projects affect reliability. Zone 7 has big projects coming up because they were deferred as a way for the Agency to be frugal. He feels that regardless if a mitigation partner does want to be part of a project, these credits will be valuable.

Ms. Duerig said there is another factor involving good will and fair practices because regulatory agencies were pushed to get the necessary permits. There was lots of outreach with resource agencies who looked at Zone 7 as an agency who was going to make it happen. Many projects have been deferred but this project was accelerated because the pilot project will demonstrate if enhancement of the creek works and helps us plan for the future, establish plans, and create good will with the public. She feels strongly that now is the time to get it done because if it is successful, we will know which way to go when moving forward.

President Palmer said $1.2 million is a reasonable amount of money for this type of mitigation but the Board should have been warned sooner of the need to come up with more funds.

Director Figuers again stated that the Board needs to know factors such as the value of credits and can credits be sold to recoup costs. Because more information is needed to make a decision, he requested a postponement for one month but Ms. Duerig said a month delay may mean it doesn't get done this year.

Director Quigley said that during the SMMP stakeholder process, the community told the Board that this is the direction they want to go and mitigation credit banks will serve the Agency well in the future; partners may emerge and we may not need to pay at all.

Director Machaevich thanked the directors for asking questions and suggested that staff should be prepared to answer questions like this in the future. However, not moving forward, for now, may create a public misunderstanding of why Zone 7 pulled out. He asked Ms. Duerig if the credits are worth this amount of money. She responded that this is a chance to use mitigation credits, bank them for our projects, or sell to others. Flood control needs riparian habitat to mitigate, but whether they are used this year or next year is not as important as knowing it will be used because construction costs are low and staff time and resources have been expended to get the permits, so the value is there.

Director Stevens feels the Board saved $900,000 because doing it now when construction costs are low and going back for a bid later will be harder. Zone 7 has forged a path as the good guys of water districts and not approving the item will harm our credibility which is important to maintain and staff wouldn't bring it forward if it were not worth proceeding at this time.

Director Stevens moved for approval and Director Machaevich seconded the motion. There was a roll call vote of 5-2 with Directors Figuers and Ramirez Holmes voting no. Director Ramirez Holmes emphasized that she is trying to be a good steward of taxpayer money and is still concerned the Board doesn't have the full project details. President Palmer voted yes because the project is beneficial to Zone 7 but reminded staff to keep the Board better informed in the future.

Item 8 - Committees: **Water Resources Committee - minutes.**

Item 10 - Reports - Directors

a. Verbal comments by President - None

b. Written report by Director Quigley

Director Quigley reported on the Santa Ana Watershed 3rd Annual Conference that he attended. Speakers talked about sedimentation, mitigation, and other topics. Details will be on the Water Education website. He referred staff to the best sedimentation study he has ever seen and encouraged them to look at it.

c. Other Directors' Verbal Reports - none.

Item 11 - Items for Future Agenda - Directors - none.

Item 12 - 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. Quarterly Update on Expansion Fund
f. Verbal Reports - none

Ms. Duerig gave a verbal report with good news that the East Bay Regional Park District authorized their General Manager to negotiate and execute a Memorandum of Understanding with Zone 7 as previously discussed with the Board.

The Board went into Closed Session at 9:27 p.m.

Item 13 - 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.

(e) Conference with Legal Counsel -- Existing Litigation (Gov't Code section 54956.9(d)(1): 2 cases

County of Butte v. Department of Water Resources (Court of Appeal, Third District Case No. C071785).

Sacramento Regional County Sanitation District v. Regional Water Quality Control Board, Central Valley Region (Sacramento County Superior Court No. 34-2011-80001028-CU-WM-GDS).

Item 14 - 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 15 - Adjournment

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