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

REGULAR MEETING
April 21, 2010

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

DIRECTORS: JOHN GRECI
STEVE KALTHOFF
CHRISTOPHER MOORE
SARAH PALMER
DICK QUIGLEY
BILL STEVENS

DIRECTORS ABSENT: NONE

ZONE 7 STAFF: JILL DUERIG, GENERAL MANAGER
ROGER PETERS, BEST BEST & KRIEGER, SPECIAL COUNSEL
KURT ARENDS, ASSISTANT GENERAL MANAGER,
ENGINEERING
VINCE WONG, ASSISTANT GENERAL MANAGER, OPERATIONS
JOHN YUE, ASSISTANT GENERAL MANAGER, FINANCE
CAROL MAHONEY, ASSOCIATE ENGINEER
JUDY RECTOR, ACTING BOARD SECRETARY

Item 3 – Citizens Forum : None

Item 4 – Minutes of the Regular Meeting of March 17, 2010

Director Palmer asked for a correction in the minutes on Page 4. The name Judge Ranger should be Judge Wanger. On a motion by Director Palmer and seconded by Director Stevens, the minutes of the Regular Meeting of March 17, 2010, were approved as presented by a vote of 6-0, with Director Figuers absent.

Item 5—Consent Calendar

Director Palmer asked that Item 5 (d), Process for Naming General Counsel for Zone 7, be pulled due to the use of the term “full” Board. On a motion by Director Quigley and seconded by Director Stevens, Consent Items 5a, 5b, 5c, 5e and 5f were adopted by a roll call vote of 6-0 with Director Figuers absent.

Resolution No: 10-3391 Approving resolution declaring May as Water Awareness Month and continued support for ACWA’s Policy Principles on Water Conservation and Water Use Efficiency. (Item 5a)

Resolution No: 10-3392 Approving resolution authorizing General Manager to negotiate and execute a consultant services contract with The Mathis Group, Inc. to provide organizational development support services. (Item 5b)

Resolution No: 10-3393 Approving resolution requesting and authorizing the Board of Directors to approve granting the Pedestrian Trail Bridge Easement and Storm Drain Easement to the City of Livermore and authorizing the President of the Supervisors of Alameda County to execute same. (Item 5c)

Resolution No: 10-3394 Item pulled from Consent calendar pending discussion of term "full" board. (see below) (Item 5d)

Resolution No: 10-3395 Approving resolution authorizing General Manager to execute a services contract with California Rangeland Trust for a not-to-exceed amount of $83,800 and to issue contract amendments when required for a not-to-exceed amount of $8,000. (Item 5e)

Resolution No: 10-3396 Approving resolution authorizing the General Manager to negotiate and execute contract Amendment No. 5 with Meyers Nave for $50,000 for legal services for property acquisition activities for the Chain of Lakes Well Nos. 1 and 2 project. (Item 5f)

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Director Figuers arrived at 7:05 p.m.

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Discussion regarding Item 5d:

Director Palmer was concerned about the use of the term "full" board of directors in the resolution because she felt it would mean that the general counsel could not interact only with a committee because sometimes counsel advice is sought by a committee, sometimes ad hoc, or sometimes full committee. She suggested taking the word full out and just saying Board of Directors. Director Moore agreed.

General Manager Jill Duerig commented that a full board can designate either a committee or an individual such as a general manager to be in contact with the general counsel and then the general counsel will be assisting the person, but in terms of a duty, a committee has no more authority than an individual. A committee can only act through a full board. The duty is to the agency, the agency is not represented by a committee, it is represented by a full board.

Director Quigley agreed with pulling the term "full". Director Stevens moved for approval and Director Moore seconded the motion. After asking if there was any public comment, a voice vote was called and the motion passed 7-0 for Resolution 10-3394.

After a brief discussion on whether Items 5b and 5f need a voice call if money was involved, Roger Peters, Special Counsel, said it is at the discretion of the Chair of the Board but there is no legal requirement to have a roll call vote on anything. It is based more on past practice and agency procedures. Director Quigley said he felt it is okay the way it is and to leave it alone.

Item 6 - Staffing Updates

Item 6a - New Employee

General Manager Jill Duerig welcomed new employee Joe Shaver. Joe joined Zone 7 on March 22, 2010 as a Construction Maintenance Laborer in the Maintenance Section. Joe is located at the Del Valle Water Treatment Plant reporting to Barry Ivy and Gerald DeWitt. Joe comes to Zone 7 with over 30 years of experience in hauling, underground utilities, and construction/pipeline maintenance work. Joe previously owned his own company and prior to that worked for Jerry Shaver Trucking.

Item 6b - Employee of the Month Recognition

Ms. Duerig announced that the Zone 7 employee of the month for February 2010 is Ginger Staton, Human Resources Analyst II. Ginger joined Zone 7 in September 2005 and works in the Human Resources and Safety Section at our North Canyons Office. She is a dedicated and hard working employee who displays high levels of professionalism, initiative, and persistence which she applies to her work. She is willing to dive in to solve difficult problems that come along while working with other employees, contractors, or other agencies. She regularly exceeds what others would consider a good job and deals with people in a manner that shows she cares about them.

Director Palmer noted that she has seen Ginger performing under difficult and tricky situations and she is immensely impressed with her. She is an extraordinary person in the way she has handled tough issues. Director Palmer noted that Ginger truly deserves recognition and Directors Stevens and Greci agreed and thanked her.

Item 7 – Consideration of Action to Increase the Compensation of Members of the Board of Directors of Zone 7 of Alameda County Flood Control and Water Conservation District

General Manager Jill Duerig explained that every two years the board considers whether or not to increase the compensation of members of the board of directors. Tom Pico and Elena Scharnhorst from the Human Resources staff did a survey of other agencies to determine both pay and benefits. Two options were suggested for consideration:

- Option one: set the compensation for the fiscal years 2010/2011 and 2011/2012 at the mean based on inflation and considering the current market compensation salary survey ($166, an increase of 3.76%)
- Option two: maintain the compensation at the current $159.99 per meeting.

If Option 1 was chosen, a public hearing would be scheduled for the May board meeting so this action would not have been adopted at this meeting.

Director Palmer suggested not raising board compensation in light of the current economy. Other directors agreed that they do not serve as directors for the money and chose Option 2. Director Moore noted that the study was very well done but that as we approach the potential for separation from the county, other types of benefits afforded to directors from other agencies may need to be discussed. Director Quigley said that it is important for the community to realize that the Board is paid significantly differently from other agencies. The information on the compensation and benefits sheet for other agencies shows clearly that the Zone 7 Board is a "lean" Board in comparison to neighboring Boards.

Director Moore asked Special Counsel about the timing of discussing board compensation and benefits if it comes to separating from the county. Roger Peters, Special Counsel, stated that if there is a separation, you would be starting over and looking at all options including board compensation and benefits. Director Moore moved no action on the item and no increase. No vote was needed but the Board chose to vote to show their unanimity on the decision.

Item 8 – Co-Sponsorship of AB2336

General Manager Jill Duerig asked if the Board was interested in co-sponsoring AB 2336 that requires the Delta Stewardship Council to direct the Delta Independent Science Board to undertake a scientific, peer-reviewed study of other stressors affecting the Delta ecosystem. The amendments greatly broaden the original focus on predation by striped bass. The changes were worked out in consultation with the committee chair, Jared Huffman, who opposed moving the bill forward with its focus on non-native striped bass. The amendments strengthen the bill. The science-based outcome is a critical step to furthering understanding of the many stressors affecting the Delta ecosystem.

Other stressors are having a significant negative impact on native species within the Delta, many of which are threatened or otherwise listed under either the federal or California Endangered Species Acts. Staff strongly urges support of this bill as amended which can be accomplished by having Zone 7 co-sponsor the bill.

By co-sponsoring the bill, the Zone could take a strong position to support addressing known stressors to the Delta's ecosystem rather than assuming that pumping is the sole stressor, resulting in potential additional pumping reductions.

Director Figuers asked who is the assembly person and senators who introduced this bill and was told that is Assemblywoman Jean Fuller from down in the valley so it is coming out of the south. Modesto Irrigation District and sports fishermen are the main opponents. Director Moore asked if they were being asked for support for the bill or a resolution? Ms. Duerig replied that she had not drafted a resolution of support but was looking for a consensus that we can co-sponsor; this is a step beyond normal support by co-sponsoring.

Director Figuers felt it was best to create a resolution from the Board saying that we want to become a sponsor. Ms. Duerig replied that she would have a resolution drafted by the end of this Board meeting. Following Closed Session, Resolution 10-3397 was made available and although it contained a typographical error, Director Palmer moved that it be adopted with a correction and Director Kalthoff seconded. The vote was 6-0.

Item 9 –Pilot Grant Program: Arroyo de la Laguna Design Grant Request From Local Landowners

Carol Mahoney presented background for this item. With the beginning of the Stream Management Master Plan (SMMP) there were lots of flood protection and community involvement projects and we started to explore how we could facilitate flood protection across the valley. Ownership is a patchwork quilt: we have some channels that we own, some that are owned by cities, some that are owned by park districts, and those sections of creeks that are privately owned. In looking at where we needed projects for flood protection and other benefits to the community, one of those areas is the Arroyo de la Laguna, one of the major exits to the valley.

Back in 2005 we had discussed with the Administrative Committee how we could facilitate projects on privately-owned creeks. One of the challenges Zone 7 faced is that we thought we would then have to acquire that property. In the SMMP there are approximately 16 projects that contain costs for land acquisition and not all are privately owned, but there may be portions of that project that are privately owned. Private landowners tend to be resistant to the idea of having a large government agency come in and purchase the fronts or backs of their yards and are not happy about easements. There is a level of discomfort: what is it going to look like, what kind of restrictions am I going to have, can I go into my backyard? Concerns that have been heard in the past. Options were discussed on the committee level, such as offering a grant program to see if we could help some of these landowners facilitate projects on their property without having to do the acquisition, were explored along with maintenance responsibilities.

Ms. Mahoney explained that what she wanted to explore with the Board is the possibility of starting a pilot grant program. She offered that she can give examples of how that grant program would run, and find out if the Board has suggestions on what we should be looking for and minimum criteria. We have funding and responsibility issues associated with doing a project on private property. Landowners who are committed to reaching a solution for their section of stream are also committed to maintaining whatever that solution may be, a positive for Zone 7 because we maintain channels that we own, we do not maintain channels that we don't own. It is a way of community building and gives Zone 7 an opportunity to work with the public. It requires members of the public to come together and organize themselves to become good stream stewards; and it allows the landowners more flexibility in addressing stream concerns because, when they work singly on one section of creek in their own backyard, it makes it more difficult to get permits and talk to regulators, but when they come together, they are collectively able to talk about stream solutions for a much larger reach. It also allows those landowners to be competitive for future grant programs because a lot of grant programs require that you have a certain level of design, and CEQA completed, and that you provide matching funds.

Why do it now? Grant funds from states and bonds are starting to sell and trickle down (Prop 84, Prop 1E) so we want to help homeowners leverage available grant funding and see if we can't boost the economic climate and be more competitive for that type of grant. That design or that level of specification helps the landowner be more competitive for federal or state grants. Federal grants open all the time so you have to be shovel-ready to get funds. Having a certain level of design is critical.

Also there are some federal earmarks: in 2009-2010, NRCS came up with $1.37 million specific to Arroyo de la Laguna. It must be used in that stretch of the creek. Also a watershed-wide grant of $1.37 million has been appropriated for Alameda Creek watersheds and a possible earmark for 2012-2013 for the same amount has not been appropriated but we hope it will be. We want to get ahead of these and help homeowners get in position to start looking at some of this funding.

We would want each proposal that comes in to be evaluated on a case-by-case basis. We may not have the funds at that time to facilitate a grant program so in the future we would like to be able to have the landowners put together a request for the Board, staff would analyze it first and make sure there is a nexus with the SMMP and our goals and objectives, and then bring that to the Board. If we decide in the future we want to solicit a certain area that we would like to facilitate a certain project in, we could look at that, we could offer a grant if the funding is available. The funding allocation recommendation is that for a planning or design grant, pull from Fund 50. For something that is a construction request, look at doing a split between Fund 76, Development Impact Fee, and Fund 50.

The minimum criteria proposed is look at a grant program for private lands but they need to be immediately adjacent or containing one of our local streams, and that land must be in Zone 7's jurisdiction, and has to be on a project reach of the SMMP, so we have a master document for flood protection and stream management and try to implement that where we can. Also we want the landowner to show a nexus to us between their proposed project and the goals of the SMMP, maybe not the same project we propose because we are looking at a planning document but as long as it is consistent with our goals, we would want to look at it and bring it to the Board as an option. We would want grant funds administered through a non-governmental or non-profit organization or HOA but not give funds to private individuals or businesses as we want to make sure we are fiscally responsible in managing funds.

In order to make sure we get people who are serious about what they want to do, we suggest a matching fund amount of 25% which could come from other sources, other grants, or it could come from landowners or local businesses. In addition, we would want to see a detailed scope of work, detailed cost estimate, and a detailed timeline (as much as they can) for what is going on in the project as they see it.

A specific example is the Verona Reach part of Arroyo de la Laguna. A year ago we contracted with Urban Creeks Council to start doing educational outreach in that area. Through that process and by talking to those landowners, the broader scope of the Arroyo, and not just the tiny section in their backyard, was looked at by the landowners and a neighborhood coalition, Friends of Verona Reach, was formed. They have been reaching out to their neighbors and have 20 different homeowner signatures signing a letter requesting grant funds which shows good community involvement. This stretch is critical to all of Alameda Creek watershed, not just their portion, but massive amounts of sediment from destabilized slope areas have an impact on several other agencies and all benefit from this proposed project if able to get further grant funds.

Director Greci stated that he is happy to see residents team together and work with us.

Director Stevens asked about the accounting aspect. Ms. Duerig explained that we have received grants in the last couple of years from state money from Prop 50 and Prop 84 and tried to pattern the concept after the state grants so that grant recipients get a fixed amount and, if there are cost overruns, that is on their dime. They would only submit their invoice to Zone 7 for our fraction and they are responsible for the remainder. Ms. Mahoney said that there is a very detailed spreadsheet exists but she had asked specifically for a simplification.

Director Moore echoed it is a very exciting opportunity for residents to move forward and leverage some of the money that we wouldn't be able to see until down the line. Also that we should ask for ownership or rights to see what is done so we have access to the data.

Director Palmer commented that it justifies the reason for the SMMP, so having a private group buy in to the concept of SMMP and utilizing that concept is exciting because it means education works and is working.

Board Secretary Rick Hankins from Castlewood County Club explained how their support of the action evolved and that Castlewood needs the banks of arroyos to stay where they are and they want to maintain them.

Beth Williams, an 11-year resident, was able to get 20 signatures in one afternoon from 28 landowners and she sees this as the first real possibility of a solution.

Jim Chayka and Mike Vukman from the Urban Creeks Council, were also present to answer technical questions.

Director Moore moved and Director Stevens seconded the motion. Resolution 10-3398 was passed by a 7-0 voice vote granting funds ($100,000) and authorizing the General Manager to enter into an agreement with Urban Creeks Council on behalf of the Friends of Verona Reach, for the initiation of the stream design.

<u>Item 10 – Committees</u>

None.

<u>Item 11—Items for Future Agendas —Directors</u>

Director Christopher Moore requested that an item be added to the next agenda. He would like to do a short presentation on HR 5081, Broadband First Responder Act of 2010. It is important for Zone7 for public safety and critical for the infrastructure to have broadband spectrum capabilities for our data to travel over without relying on commercial systems. It is a complicated topic which can be condensed into a fifteen-minute presentation.

<u>Item 12 – Reports – Directors</u>

a. Written report by Director Quigley
b. Verbal reports

Director Palmer attended an American Chemistry Society meeting this past month where the theme was “Sustainable Chemistry”. There was a workshop on water treatment, specifically in developing nations, and they also spoke of the need for pre-treatment of salt water led to a lot of secondary chemicals. Desalination, while solving some issues, brings up other issues.

She also commended Boni Brewer, Athena Watson and Colter Andersen who provided her Tri-Valley Regional Occupational Program students with tours of the new Chain of Lakes Wells, one in the morning and one in the afternoon. They spoke to her students (18 year olds), about careers and it was a wonderful outreach activity for the educational system.

Director Quigley said that he stopped by both Robertson Park and the Farmer’s Market and saw Zone 7’s booths for Earth Day.

He also spoke about the Vandenberg Air Force Base, Region 5 meeting and tour of their water problems. As noted in his written report, Vandenberg is where we launch different satellites, missles, etc. and it covers 100,000 acres and 42 miles of shoreline. Eighteen thousand people are served daily but the water is 3-1/2 hours down south from us and they get their water the same as we do from the State Water Project.

Item 13 – Staff Reports (Information items. No action taken.)

Ms. Duerig introduced Item 13. Most staff reports are self-explanatory but she did point out that there are two additions this month to the usual listing: Energy Program and Quarterly Update of Expansion Fund.

Director Quigley said he is really happy to see the Energy Program staff report and encouraged the Board to read it in full. He said it shows how much energy costs are escalating but that we are conserving and trying to be lean and mean and aggressive toward reducing energy costs. He is excited about going solar at Del Valle and for potential projects at Pattern Pass Water Treatment Plant.

Director Kalthoff asked about the water supply situation. Ms. Duerig replied that the current allocation is still 20 percent. Lake Oroville is still low and we are still catching up so the allocation is low. Director Kalthoff asked if we can monitor water usage? He relayed that Livermore has a soccer field near Holmes where the sprinkler was turned on full blast while it was raining. Randy Werner from City of Livermore said he will pass that on to the Livermore Area Regional Park District.

Mr. Werner then asked what is the Zone 7 strategy during the 10-day shutdown?
Vince Wong, Assistant General Manager, Operations, replied that it is not a complete shutdown but will be a limited shutdown to meet out Patterson Pass needs. They will be able to cycle Bethany so the South Bay pumping plant will be able to deliver to South Bay contractors.

The Board went into closed session at 8:25 after a five-minute break.

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Item 15 - CLOSED SESSION

a) Conference with Legal Counsel – Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9: 3 cases

b) 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

c) Government Code Section 549547: Public Employee Performance Evaluation
Title: General Manager

Item 16—OPEN SESSION AND REPORT OUT OF CLOSED SESSION

The board came out of closed session at 10:05 p.m. and announced that the Board unanimously adopted Resolution No. 10-3399 approving an amendment to Section 2.5 – Boot Allowance (Building Trades) for Safety Technician I, Safety Technician II, Electrician, Instrument Technician, Instrument Technician II, Plant Mechanic, Plant Maintenance Laborer, Transportation and Supply Coordinator, Lead Plant Mechanic and Construction Maintenance Laborer.

The board then re-opened discussion on co-sponsoring AB 2336 (Item 8), as outlined above.

Item 17—Upcoming Board Schedule
(All meeting locations are at 100 North Canyons Parkway, Livermore, unless otherwise noted)

a) Regular Board Meeting: May 19, 2010, 7:00 p.m.

There being no further business, the meeting was adjourned at 10:10 p.m.