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

REGULAR MEETING
May 20, 2009

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

DIRECTORS:	SANDY FIGUERS JOHN GRECI STEPHEN KALTHOFF SARAH PALMER CHRISTOPHER MOORE DICK QUIGLEY BILL STEVENS
DIRECTORS ABSENT:	NONE
ZONE 7 STAFF:	JILL DUERIG, GENERAL MANAGER AMY NAAMANI, GENERAL COUNSEL KURT ARENDS, ASSISTANT GENERAL MANAGER, ENGINEERING VINCE WONG, ASSISTANT GENERAL MANAGER, OPERATIONS JOHN YUE, ASSISTANT GENERAL MANAGER, FINANCE TOM HUGHES, HUMAN RESOURCES MANAGER BONI BREWER, COMMUNICATIONS SPECIALIST TOM ROOZE, ASSOCIATE HYDROGEOLOGIST DAVID LUNN, PRINCIPAL ENGINEER, WATER RESOURCES BRAD LEDESMA, ASSOCIATE ENGINEER BARBARA MORSE, BOARD SECRETARY

Item 3—Citizens Forum: None

Item 4—Minutes of Special Meeting of April 9, 2009 and the Regular Meeting of April 14, 2009

On a motion by Director Kalthoff with second by Director Quigley, the minutes of the Special Meeting of April 9, 2009 and the Regular Meeting of April 15, 2009 were approved as presented.

Item 5 —Appointment of New Director to Fill Vacancy on Board of Directors

Director Dale Myers' April 13, 2009 resignation from the Zone 7 Board of Directors resulted in a vacancy on the Board that needs to be filled for the remainder of his term scheduled to expire June 30, 2012.

The Alameda County Flood Control and Water Conservation District Act Section 36 ("District Act"), provides that "*Vacancies in the membership of a board shall be filled for the unexpired term by appointment by a majority of the remaining members of the board.*" Notices of this vacancy were posted in accordance with Government Code Section 1780.

At the April 15, 2009 regular board meeting, the Board voted unanimously to have acting President Quigley contact former Director Christopher M. Moore to communicate the Board's interest in Mr. Moore as a potential appointee to the Board in light of the fact that Mr. Moore was the next highest vote recipient in the Zone 7 Board of Directors election of June 2008. Mr. Moore has responded favorably and was present to express his interest and willingness to serve as a Member of the Zone 7 Board of Directors should a majority of the Board so decide.

President Palmer asked if there were any comments from the audience. There were none.

President Palmer asked if there were any comments from the Directors. There were none.

President Palmer asked for a motion.

Director Figuers moved that the Board appoint Mr. Christopher M. Moore to fill out the remainder of the term left vacant by the April 13, 2009 resignation of Mr. Dale Myers. The motion was seconded by Director Kalthoff, and the motion passed by a roll call vote of 6-0.

Mr. Moore thanked the Board. He stated that he was honored by the appointment, and he looked forward to working with the other board members and staff.

Ms. Barbara Morse, Board Secretary, then administered the oath of office to Mr. Moore, and Mr. Moore assumed his seat on the Board.

Item No. 6—Consent Calendar

Ms. Duerig called attention to a revised resolution for Item 6d which corrects a typographical error in the version which went out with the agenda packet. Corrected copies of the resolution were provided to board members prior to the meeting. In the third "Whereas," the correct wording should be ". . . social, testimonial, retirement and similar events are included under this resolution."

Director Quigley suggested it would be helpful if a recap of accomplishments during the past year was provided for the contracts which are up for renewal.

On a motion by Director Quigley with second by Director Figuers, the Board approved Consent Items 6a through 6g. The following resolutions were approved:

Resolution No. 09-3298	Approving a consulting services contract with Mr. Kenneth R. Henneman, Water Resources Consultant, for FY 2009/10 for a maximum not-to-exceed amount of $175,000 for the period July 1, 2009 through June 30, 2010. (Item 6a)
Resolution No. 09-3299	Approving a consulting services contract with Mr. Billy Ferguson, Civil Engineering Consultant, for FY 2009/10 for a maximum not-to-exceed amount of $60,000 for the period July 1, 2009 through June 30, 2010. (Item 6b)
Resolution No. 09-3300	Approving a consulting services contract with Mr. Yan Kee Chan, Civil Engineering Consultant, for FY 2009/10 for a maximum not-to-exceed amount of $80,000 for the period July 1, 2009 through June 30, 2010. (Item 6c)
Resolution No. 09-3301	Approving professional services contract with Kier & Wright Civil Engineers & Surveyors, Inc., for surveying support services for FY 2009/2010 in an amount not-to-exceed $155,200. (Item 6d)

Resolution No. 09-3302	Approving consulting services contract with Morrison & Associates, Inc., for community outreach, water education and regional/local agency coordination support services, in an amount not to exceed $184,000, including a $5,000 contingency, for FY 2009/2010. (Item 6e)
Resolution No. 09-3303	Approving consulting services contract with Davis & Associates Communications for publication and website support services, in an amount not-to-exceed $85,000, including a $5,000 contingency, for FY 2009/2010. (Item 6e)
Resolution No. 09-3304	Authorizing the General Manager to approve payment of costs associated with ceremonial, promotional and volunteer events up to an aggregate total as budgeted for the fiscal year; and permitting the use of Zone 7's Petty Cash Fund for payment of such expenses and awards in excess of the $50 per purchase limit as set forth by the Alameda County Auditor-Controller's Office up to a maximum individual expense of $100. (Item 6f)
Resolution No. 09-3305	Authorizing the General Manager to issue a Change Order to the Excavation and Hauling Services Contract with Joe Shaver Backhoe Service; said Change Order in the amount of $24,929 will increase the contract to a total not-to-exceed amount of $331,000 for FY 2008/2009. (Item 6g)

Item 7—Staffing Update--None

Item 8—Presentation by Science & Engineering Fair Awardees

The Board heard an introduction by Ms. Brewer of students from the Tri-Valley area who were winners of Zone 7 awards in the Science & Engineering Fair. As in past years, Zone 7 staff members volunteered to serve as judges of water-related projects in the Tri-Valley Science & Engineering Fair held on March 25 and sponsored by the Lawrence Livermore National Laboratory. The students with the winning projects selected by Zone 7 staff received small cash prizes for their water-related projects and were asked to make short presentations to the Board.

The Board then heard presentations from the following students:

- **Nicholas Winter, Livermore Charter School,** who along with **Brian Garcia** received a junior (grades 6-8) team water award for their study entitled, "Is There Muck in the Water? Analyzing the Water of Local Waterways." (Brian Garcia was unable to attend the meeting.)

- **Adam Rueckert and Brady Comerford, San Ramon Valley High School,** who received a senior (grades 9-12) team water award for their study, "The Effect of Non-Prescription Drugs in the Water, on Water Hyacinth."

- **Alison Burklund, The Athenian School,** a Livermore resident who received an individual senior (grades 9-12) water award for her study, "Finding the Optimal Decontamination Method for Bacillus Anthracis Spores in a Contaminated Drinking Water System."

President Palmer congratulated the students on their awards and thanked them for the presentations.

Item 9—Award of Contract to Redgwick Construction Company for Maintenance and Emergency Work for Water Supply Facilities

Mr. Wong provided the following summary of this proposed contract:

- Zone 7 has an existing contract with G.S.E. Construction Company to provide routine maintenance and emergency work for water supply facilities on an as-needed basis. The existing contract will expire on June 30, 2009; however, there is an ongoing need to perform routine maintenance and emergency work for water supply facilities on an as-needed basis until the two new Construction Maintenance Laborers can be hired, trained and equipped. Current County estimates to complete these steps are around twelve months.

- In April 2009, Zone 7 advertised and solicited bids for a new annual contract for routine maintenance and emergency work services on an as-needed basis. The engineer's estimate for the Project for the estimated volume of work in FY 09/10 is $466,000.

- The project was advertised and bid out in accordance with the Public Contract Code and three (3) bids were received on May 6, 2009.

- Redgwick Construction Company (Redgwick) was identified as the lowest responsive responsible bidder with a bid price of $436,618.

- Staff recommends adoption of the attached resolution, which (1) authorizes the project, (2) approves the project specifications, and (3) authorizes the General Manager to execute a contract with Redgwick for an amount not-to-exceed $436,618.

There were no comments or questions from the Board.

Director Figuers moved for the adoption of Resolution No. 09-3306 approving a construction contract with Redgwick Construction Company in the not-to-exceed amount of $436,618 for Maintenance and Emergency Work for Water Supply Facilities for FY 09/10. The motion was seconded by Director Kalthoff and passed by a vote of 7-0.

Item 10—Consulting Contract with DTN Engineers, Inc., for Electrical Engineering Support Services

Mr. Arends provided the following summary of the proposed contract:

- Zone 7 has an ongoing need for electrical engineering support services. These services are critical for the planning, design, construction and maintenance of complex electrical systems and machinery.

- In April 2007, proposals were requested to provide electrical engineering support services to Zone 7 on an annual contract basis. DTN Engineers, Inc., was found to be best able to provide these services and in May 2007, the Zone 7 Board of Directors approved an annual electrical engineering support services contract with DTN for FY 2007/2008 and renewable for two additional years upon the mutual consent of the contractor and Zone 7.
- In May 2008, the Zone 7 Board of Directors approved a renewal of DTN's electrical engineering support services contract for fiscal year 2008/2009.

- Performance during fiscal year 2008/2009 has been more than satisfactory. Staff is recommending renewal of DTN's contract for a third year.

- In order to more efficiently obtain these services, it is Zone 7's practice to go through the Request for Proposal process once every three years, and that will happen next year.

- The recommended action is to adopt the resolution authorizing the General Manager to execute a professional services contract with DTN Engineers, Inc., for fiscal year 2009/2010 in an amount not to exceed $200,050.

There were no questions from the Board.

Director Kalthoff moved for the adoption of Resolution No. 09-3307 approving a consulting contract with DTN Engineers, Inc., for electrical engineering support services in the not-to-exceed amount of $200,050 for FY 09/10. The motion was seconded by Director Quigley and passed by a vote of 7-0.

Item 11—Annual Report for the Groundwater Management Program for 2008 Water Year

Ms. Duerig introduced Mr. Tom Rooze, Associate Hydrogeologist, Groundwater Protection and Projects Section, who would be giving a summary of the Annual Report for the Groundwater Management Program for 2008 Water Year. She stated that historically Jones & Stokes has put this report together for us at a cost of about $100,000 to $250,000. However, for the past couple of years, Mr. Rooze has been doing the report in-house at a substantial cost savings.

The Board then heard from Mr. Tom Rooze, on the monitoring and management results of the 2008 Groundwater Management Program.

Highlights of the report:

- The 2008 Water Year was another dry year with the Valley receiving about 79% of average rainfall. Natural recharge of the Main Basin aquifer was 69% of normal.
- Due to low State Water Project allocations and interruptions in deliveries from the Delta, Zone 7's artificial recharge was limited to about 2,200 acre-feet or approximately 26% of normal.
- The volume of groundwater in storage in the Main Basin decreased approximately 4,000 acre-feet over the 2008 Water Year, leaving approximately 89,000 acre-feet of recoverable water in local storage at year end.
- Approximately 3,700 tons of salts were added to the Main Basin in 2008, thus increasing the calculated average basin-wide TDS concentration by about 80 mg/L over the last two years.
- Zone 7 issued 182 well and soil boring permits;
- Zone 7 approved one new commercial septic tank application and two septic tanks for secondary residential units on two small lots-of-record;
- Staff tracked the progress of 86 active contamination sites within our service area; and
- Zone 7 installed one new key monitoring well, and made good progress on our Groundwater Demineralization and Well Master Plan facilities projects.

President Palmer thanked Mr. Rooze, stating that he had done a great job, and that she was impressed with the report. She also noted that the full report is available at the Zone 7 website.

Item 12—Annual Review of Sustainable Water Supply

The Board heard a presentation by Mr. David Lunn, Water Resources Manager, and Mr. Brad Ledesma, Associate Engineer, on the Annual Review of Sustainable Water Supply.

Summary of Mr. Lunn's remarks re Zone 7 water supply and demand, 2009:

- Zone 7's approved delivery schedules to the retailers are sustainable under existing supply conditions and will remain so for anticipated increased contractual requests for another decade.
- Zone 7's average yield is unchanged at 64,500 acre-feet.
- Storage and operational losses average 2,000 acre-feet a year.
- Sustainable supply is unchanged at 62,500 acre-feet.
- Projected demands exceed sustainable supplies in about a decade—around 2019.

Director Greci thanked Mr. Lunn for the informative report. He felt that the optimistic outlook for Zone 7's long term water supply was indicative of the agency's good management and visionary actions to acquire additional water entitlements and out-of-area storage. We're in good shape, and it is because of good management and practices.

Mr. Ledesma continued the presentation with a discussion of how to move forward.

- The path forward will be determined using risk-based analysis of the components of Zone 7's water system: surface water supply, groundwater basin and non-local storage.
- The key to managing Zone 7's long term water supply is minimization of risk and maximization of flexibility.
- The risk-based water supply analysis will help Zone 7 staff select the best mix of solutions to meet this goal in the face of an uncertain future.
    - Identify options.
    - Define costs.
    - Determine a preferred path.
    - Determine alternative paths.
- Zone 7 staff feels that it is reasonably likely that Zone 7 will be able to meet contracted water demands through projected build-out of the Livermore-Amador Valley.

Director Quigley thought that the presentation was very good and shows the options available to us. He added he has been in Sacramento at the ACWA conference where today there was a rally at the State Capitol to send a message to legislators that the water system in California is broke, and we need to fix it.

President Palmer said that the report was good news overall but that we must look a decade out and plan for when our supply does not meet demand.

Item 13—Request to Defer Collection of Water Connection and Development Impact Fees

Mr. Arends advised that in the past few months during discussions on the Development Impact Fee (DIF), Zone 7 received several requests from the development community to consider deferral of development fees. It is believed that collection of the fees at time of occupancy rather than when the building permits are issued would lessen the impacts of the poor economy on the builders, thus easing their cash flow.

Mr. Arends stated that staff has contacted other agencies to find out if they are deferring fees. The Cities of Livermore and Pleasanton have programs in place to defer fees. The City of Dublin does not allow fee deferrals but is in the early stages of looking at it. DSRSD is not recommending deferral of fees.

Staff has analyzed the potential impacts of deferring the collection of Zone 7 development impact fees and has identified several key issues:

- Deferring collection of the DIF would result in a delay between the impact of development (and the resulting burden on our system) and the collection of funding to improve the system.

- Similarly, the infrastructure to serve water to a home must be constructed before the home is actually occupied. In effect, Zone 7 would have to advance reserves to pay for improvements needed to offset impacts and then wait for the deferred fees to be received.

- The deferral of fees, especially in a weak development market would create a risk for Zone 7 should a development fail after construction had already begun.

- The deferral of fees would also impact the cash flow to the agency under normal conditions and especially in the current economic slowdown in development. The Water Enterprise Expansion Fund has seen a significant reduction in revenue that has resulted in the delay of several capital projects including the Altamont Water Treatment Plant, Altamont Pipeline project, Second Demineralization Facility and Second Phase of Chain of Lakes Wells.

- Deferral of fees could have potential, significant impacts on the Installment Sale Agreement (ISA) which was negotiated to act as a "line of credit" to provide bridge funding to cover short term funding gaps in the Capital Expansion Fund.

- The interest revenue that would have been earned during the deferral time period could not be recouped.

Mr. Arends stated that it is staff's recommendation that fee collection not be deferred.

Audience comments:

Mr. Jim Pollert, O'Brien Homes, stated he believed that deferral of fees would be beneficial to the development community to help with financing. Right now because of financial constraints it is very difficult for builders to start homes. It would be easier if fees would not have to be paid up front. This is a way to stimulate the housing market and the construction industry. He requested that the Board direct staff to look into deferral of fees in more depth. He noted that a lot of agencies in the nine Bay Area counties are doing fee deferrals.

Director Kalthoff asked if this request was for deferral of connection fees or DIF fees.

Mr. Pollert responded that he would be happy if only the water connection fees could be deferred.

Mr. Jim Glover, Homebuilders Association, also spoke in support of Zone 7 deferring development fees. However, he understood the potential impacts to Zone 7. He requested that the Board direct staff to come back with more information on the impacts to the ISA.

After a brief discussion, there was consensus on the Board that staff should collect more information on what the impacts of fee deferral might be on the ISA. Additionally, this item should be sent to the Finance Committee for analysis and recommendation to the full Board.

Mr. Yue stated that the ISA is a lifeboat to our cash flow problems. It was put together when the financial markets were favorable, and we have good terms. We don't want to do anything that would cause it to be canceled or in any way jeopardize our ability to use it for its intended purpose.

President Palmer stated she is not in favor of deferring the DIF fees.

Directors were in favor of referring this matter to the Finance Committee for further study.

Mr. Randy Werner, City of Livermore, stated that initially he was not in favor of the City deferring fees but it has turned out to be a slight stimulus to building. He clarified that the City defers City-related fees not Zone 7 fees.

President Palmer summarized the action as she heard it. There is consensus for this matter to be heard by the Finance Committee. Staff is to get more information on potential impacts to the ISA. The Board is willing to look at deferral of connection fees, only, and not the Development Impact Fee which is based on impervious surface.

Item 14—Committees

No committee meetings were held this month.

President Palmer advised that she was appointing Director Moore to the Finance Committee. She stated that she would be moving on to the Delta Committee. Further, the Personnel Committee would be dissolved for now because it is not needed.

Item 15—Items for Future Agendas—Directors

None.

Item 16—Reports—Directors

a. Written report by Director Quigley
b. Verbal reports--None

In addition to the written report, Director Quigley reported on the ACWA conference that was underway in Sacramento. The theme was "Water Infrastructure 911" and puts focus on why our aging infrastructure is at the heart of the water problem. One highlight so far has been the rally at the State Capitol to call for action on water. He'd also heard speakers from some of the Central Valley areas that are being particularly hard hit by water issues and the poor economy. The conference continues until Friday.

Director Figuers recommended a talk by Dr. Roth which was part of the UC Berkeley Geotechnical Symposium. Dr. Roth's presentation on infrastructure and large scale disasters was excellent. It's about an hour and a half long and focused on the San Francisco and Los Angeles water systems and how they have fared in earthquakes; and also a risk analysis of New Orleans. We should try to get a videotape for staff to see.

Director Figuers agreed to watch for when it may be available so that a copy can be purchased by Zone 7.

President Palmer noted that she had an informal meeting with Mr. Dan Scannell, President of the DSRSD Board of Directors, regarding a possible joint meeting of the Liaison Committees of our two agencies. Staff is working on setting an early July meeting date. Topics would include long term water reliability and recycled water.

Director Figuers stated that he had brought in some original 1875 school maps of the Livermore Valley that show streams, swamps, etc., that existed in the Valley at that time. They're on the back table if anyone is interested in taking a look at them.

<u>Item 17—Staff Reports</u> (Information items. No action taken.)

a. General Manager's Report
b. Recent & Upcoming Public Outreach Activities
c. State Legislative Update
d. Quarterly Financial Report
e. Recent Employee Activities
f. Eastern Alameda County Conservation Strategy (EACCS)—Project Update
g. Zone 7 Water Conservation Activities

<u>Item 17h—Verbal Reports</u>

Ms. Duerig announced that DWR has announced water deliveries this year of 40%. This is up from 30% a month ago.

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The Board then took a short break before reconvening in Closed Session at 9:05 p.m.

<u>Item 13--CLOSED SESSION</u>

a) Conference with Legal Counsel - Existing litigation pursuant to Subdivision (a) of Government Code Section 54956.9: 2 cases

<u>ACFCWCD, Zone 7 vs. Legacy Pleasanton Land, LLC et al</u>.; Alameda County Superior Court Case No: VG07353303

<u>Central Delta Water Agency & South Delta Water Agency vs. United States Fish & Wildlife Service et al</u>.; United States District Court Eastern District Case No: 2:9 CV 01003-JAM-GGH

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

c) Conference with Labor Negotiators:
Agency Negotiator: G.F Duerig
Employee Organization: Alameda County Building and Construction Trades Council, Local 342, AFL-CIO; International Federation of Professional and Technical Engineers, Local 21, AFL-CIO; Unrepresented Management

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

Open Session and Report Out of Closed Session

President Palmer stated that while in closed session, the Board unanimously adopted the following resolutions:

Resolution No. 09-3308	Approving Supplemental Agreement to Memorandum of Understanding with the International Federation of Professional and Technical Engineers, Local 21, AFL-CIO, extending current MOU through June 27, 2010, with exceptions as set forth in the resolution.
Resolution No. 09-3309	Approving salary adjustments with Unrepresented Classifications in Zone 7, to be effective for the period June 28, 2009 through June 27, 2010, with exceptions as set forth in the resolution.

Upcoming Board Schedule

a. Regular Board Meeting: June 17, 2009, 7:00 p.m.

There was no further business, and the meeting was adjourned at approximately 9:55 p.m.