

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

June 17, 2015

The following were present:

DIRECTORS: SANDY FIGUERS
JOHN GRECI
JIM McGRIL
SARAH PALMER
DICK QUIGLEY
ANGELA RAMIREZ HOLMES
BILL STEVENS

DIRECTORS ABSENT: NONE

ZONE 7 STAFF: JILL DUERIG, GENERAL MANAGER
KURT ARENDS, ASSISTANT GENERAL MANAGER, ENGINEERING
MATT KATEN, PRINCIPAL GEOLOGIST, GROUNDWATER SECTION
DONNA FABIAN, ACTING BOARD SECRETARY

COUNSEL: DAVID ALADJEM, DOWNEY BRAND

Item 1 - Call Meeting to Order

President Greci called the meeting to order at 7:00 p.m.

Item 2 - Pledge of Allegiance

President Greci led the Pledge of Allegiance.

Item 3 - Citizens Forum

None.

Item 4 - Minutes of the Special Meeting and Regular Meeting of May 20, 2015

A motion to approve the minutes of the Special Meeting was made by Director Palmer and seconded by Director Ramirez Holmes. A motion to approve the minutes of the Regular Meeting was made by Director Stevens and seconded by Director Figuers. Both minutes were approved by a voice vote of 5-2 with Directors McGrail and Quigley abstaining.

Item 5 - Consent Calendar

Director Figuers moved and Director Quigley seconded a motion to approve the following resolutions, which were approved by a roll call vote of 7-0:

- Resolution No. 15-66 Authorized the Memorandum of Agreement to participate in the Bay Area Regional Reliability Plan. (Item 5a)
- Resolution No. 15-67 Authorized a contract with Bruce Balala Excavating. (Item 5b)
- Resolution No. 15-68 Authorized an annual professional services contract with Bluestone Engineering, for as-needed structural engineering support services. (Item 5c)
- Resolution No. 15-69 Authorized the Joint Exercise of Powers Agreement for Aquatic Pesticides Permit Monitoring. (Item 5d)
- Resolution No. 15-70 Approved the addition of one Water Resources Technician II position. (Item 5e)

Item 6 - Staffing Update

General Manager Jill Duerig announced that the April Employee of the Month was Boni Brewer, Communications Specialist. President Greci commended Ms. Brewer on her work on press releases. Ms. Brewer was present and the board applauded her.

Item 7 - Nutrient Management Plan

Matt Katen, Principal Geologist of the Groundwater Section, presented the revised draft Nutrient Management Plan (NMP). He gave a background on the NMP starting with 2009 when the State Board adopted a new recycled water policy that requires Salt Nutrient Management Plans for groundwater basins in California. He stated that having an adopted NMP is an eligibility requirement for many of the State Water Resources Grants. Mr. Katen said the NMP would be incorporated into Zone 7's Salt Management Plan, which is already in place. He said that during the process of developing the NMP, Zone 7 reached out to several outside agencies and stakeholders to get input. Mr. Katen went through a few slides showing nitrate concentrations in five areas of concern. He showed a new table that was added to the report that shows the percentage of nitrogen loading that comes from each source in the main basin. Mr. Katen said that one of the changes made throughout the NMP was the reference to On-site Wastewater Treatment Systems (OWTS) instead of calling them septic tanks. Mr. Katen went through a few more slides that showed the revisions and edits that were incorporated in the NMP since the draft that was presented to the board in February. Mr. Katen stated that at the Water Resources Committee meeting on June 9, staff were given recommendations from the committee members to accept the revisions and edits that were presented, to approve the schedule for development of technical recommendations, to continue to work with other agencies to implement the NMP, and to bring the NMP to the full Board for consideration.

Director Figuers asked why there is such a disparity between sub-basins on Nitrogen Loading Percentages between the nitrogen source of the main basin recharge for stream and rain, and in the irrigation and fertilizer. Mr. Katen said that those percentages are all relative to the totals in the basin. He said one difference is the amount of acreage irrigated in each of the basins. The quality of water being irrigated is another factor.

Director Quigley asked about the frequency of updating Plans, Goals, Strategies and Implementation. Mr. Katen stated that the updates will be part of the Annual Groundwater Management Plan. Ms. Duerig added that the Water Resources Committee was very clear that if new information arose, staff would not delay boundary adjustments waiting for the annual report.

Director McGrail stated that he was concerned about adopting a resolution requiring special permitting criteria when he was under the assumption Zone 7 would adopt recommendations establishing acceptable wastewater loading limits. Ms. Duerig referred to the slide that said 'permit requirement recommendations' and reiterated that Zone 7 is not a permitting agency. Ms. Duerig said that the NMP is for protecting the groundwater basin that Zone 7 manages, and it would be up to the permitting agencies to impose it as part of their permitting requirements. Christine Boschen, Senior Environmental Scientist for the Regional Water Quality Control Board (RWQCB) was present to assist in answering questions. She said that Zone 7 is doing the RWQCB a favor by providing a permitting tool and assistance in locating where the contaminating plumes are. Ms. Boschen stated that the RWQCB are the ones that issue permits for larger systems or by delegation through the local agency management program to Alameda County which issues permits for the smaller systems, but it is the mandate of the RWQCB to issue the permits. She said they look to Zone 7 as the resource agency to provide them with the help and technology recommendations for what would be an appropriate approach for protecting local groundwater. Ms. Boschen said that without the recommendation by Zone 7, they could be in a situation where they are not able to issue a permit at all.

General Counsel David Aladjem referred to page two of the resolution where it says the NMP recommends, stating that 'recommends' is the key word. He continued that Zone 7 makes the recommendation and then it is acted upon by the County and the RWQCB. Mr. Aladjem said that the Board is being asked to adopt the plan saying these are the recommendations the agency is making to the permitting agencies, and not establishing a separate permitting requirement.

Director Ramirez Holmes stated that Zone 7 is actually part of the permit process because Zone 7 signs off on septic tanks prior to a permit being issued. Mr. Aladjem stated that yes, Zone 7 is part of the permitting process, but what the resolution is stating is here are some of the standards Zone 7 thinks are appropriate, and the RWQCB and the County can then go through their permitting process. Zone 7 has input, but Zone 7 is not a permitting agency.

Director Ramirez Holmes said that she is concerned about the part that was omitted from the NMP that said if there was a failed system and there were no changes on the property, the homeowner would be able to put in the same system, as opposed to upgrading to the expensive system. Ms. Duerig said the County said that when there is a failed system and the County issues a permit, it is just like any other building permit, that it has to be brought up to code. Director Ramirez Holmes said she was concerned that the last notice sent to the affected homeowners was in March and that they didn't receive a notice that the Board was planning to adopt the NMP at tonight's meeting. She also had a concern about data methodology obtained in the Mines Road area from just one well whereby the data collected provides requirements for a large area. Mr. Katen said that some of the items staff has considered is a loading map showing parcel boundaries with a higher density than average of septic tanks in that area which is why they termed it "Areas of Concern." Ms. Duerig added that due to the adoption of the budget, it allowed Zone 7 to bring in two interns this summer to assist the Groundwater Section, and at least one of them will be concentrating on getting more data in those areas. Ms. Ramirez Holmes said she is concerned about recommending stringent requirements when there is still data to be collected. She also asked if Zone 7 had to include everything that was in the plan in order to adopt the plan. Ms. Duerig said that if the RWQCB won't endorse the plan, then it wouldn't count as a Nutrient Management Plan the State would recognize, which is why staff worked so hard with the RWQCB and the County to come

up with a plan that all parties are comfortable with. She said if items are pulled out, she isn't sure the RWQCB would support it. Ms. Boschen agreed with Ms. Duerig and advised that with the technical information and guidance received from Zone 7 staff, they will most likely implement their end of it. Director Ramirez Holmes then asked about the inclusion of the Happy Valley area of Pleasanton as an area of concern. She is concerned that the residents weren't properly notified and didn't have an opportunity to comment. Ms. Duerig stated that Happy Valley has always been one of the 10 areas of concern and because Happy Valley currently has a moratorium on any new septic tanks, it is considered low priority. Mr. Aladjem said that anyone who has been interested in the NMP process has been informed to sign up for Zone 7's electronic newsletter, which is more than ample notice under the Brown Act. Director Ramirez Holmes wanted to clarify that while she appreciates Zone 7 making the legally required notification, she is concerned about the economic impact, and wanted to go over and above the legal requirements for notification.

President Greci stated that Ron McNicoll of The Independent newspaper was in the audience, and he will be writing an article on the NMP. He stated that The Independent is another source for people who don't have computers and don't look at email.

Director Stevens commented that Zone 7 will not receive any grants unless the NMP is adopted and in place. Director Quigley agreed with Director Stevens. He also said that staff have given plenty of notice on the NMP. Director Quigley's concern is pulling samples once a year when there are variances in seasons and precipitations. Mr. Katen said that hydrologic conditions change and they would have some bearing on dilution or non-dilution of the contaminant, and there can also be changes in the loading. He said that in the Buena Vista area, there are multiple wells and there have been many years of sampling, and the contaminants are consistently high and always above 45 mg.

Director Figuers asked if a homeowner has a septic system that fails, what are they required to do in terms of studies to replace their well. Mr. Katen said that most likely they would have to replace their system with a nitrate-reducing system if they are in an Area of Concern. Ms. Boschen said that they will have to go to Alameda County for their permit. Director Figuers asked what it would cost the homeowner. Director Ramirez Holmes said that it would cost double what a regular system costs, but what is additional about the new plan is that there will be an annual maintenance fee and a permit requirement. Ms. Duerig stated that the initial installation is where it is most costly which is why the Water Resources Committee came up with the idea of the mini grant to help bridge that gap. Director Ramirez Holmes asked if the board adopted the NMP and a system fails next week, will the homeowner fall under the recommendation that was passed. Ms. Boschen stated that it would come under the current County ordinance. Ms. Duerig said it depends on how the County implements the plan. She said the County might not include these recommendations into a new ordinance until they adopt their LAMP, which probably is at least a year away.

President Greci commented that staff needs to understand what is meant by a failed system. He said that as systems get old, grease plugs the leach lines and sometimes all they need is to replace the leach line and it is a simple fix and shouldn't have to meet the requirements. Furthermore, he said that if they are not in an area of concern, they can go with a conventional system. He added that if a resident in a non-concern area is going to add more bedrooms to their house, they could get a conventional permit if their current system is working. Ms. Duerig said that this is in the County ordinance and not something Zone 7 gets involved in.

President Greci asked for public comment. Dan McIntyre, Dublin San Ramon Services District, said that this is an important plan and the district supports adoption.

Since there was no further comment, Director Quigley moved to approve the plan and Director Palmer seconded. The Nutrient Management Plan was approved by a voice vote of 7-0.

Resolution No. 15-71 Adopted the Nutrient Management Plan as an addendum to the existing Groundwater Management Plan. (Item 7)

Item 8 - Solid Waste Disposal Contract with Altamont Landfill and Resource Recovery Facility

Mr. Arends introduced the agenda item regarding the annual contract for landfill services that goes out for proposals every three years. Staff are recommending Altamont Landfill and Resource Recovery Facility, as they quoted the lowest rates. Director Quigley commented that a delta fix for conveyance could significantly reduce Zone 7's sludge piles and the expense of landfill disposal. He also said it would improve water quality coming into the system.

The motion to approve the contract was made by Director Ramirez Holmes, seconded by Director Quigley, and passed by the Board by a roll call vote of 7-0.

Resolution No. 15-72 Authorized a new contract with Altamont Landfill and Resource Recovery Facility for landfill disposal services. (Item 8)

Item 9 - Committee Reports - Administrative Committee Meeting - June 4, 2015 - notes
Water Resources committee Meeting - June 9, 2015 - notes

Director Ramirez Holmes asked for clarification that Zone 7 is giving BBID water this year. Ms. Duerig stated that Zone 7 might be giving up to 3,000 acre-feet of water this year and BBID has agreed to pay Zone 7 back at 1.5 to 1 over the next three years if the transfer is approved. Director Palmer said it is a nice investment on our part and President Greci said it is a good move. Director Stevens said he feels guilty for Zone 7 to profit off BBID because they have been so good to Zone 7 in the past. Ms. Duerig stated that it is not a done deal and approvals are still needed.

Item 10 - Reports - Directors

- a. Verbal comments by President
- b. Written report by Director Quigley
- c. Verbal Reports

Director Palmer described an article from the August 21, 1950, edition of Life magazine titled, "The West is Outgrowing its Meager Rainfall."

Director Quigley provided an overview of California's water policy from the Public Policy Institute of California. He also attended a webinar on June 16th for ACWA region Chairs and Vice-Chairs.

Item 11 - Items for Future Agendas - Directors

Director Ramirez Holmes asked if the board should discuss the recycled water use that residential users are putting into the ground and was wondering if people are given guidelines or is Zone 7 able to track or include that data in the NMP. Ms. Duerig stated that Zone 7 is not tracking it but the two wastewater agencies who are conducting the recycled water programs are. She said that the City of Livermore issues permits to be able to haul the water so they might know where the water is going. However, she

added that the relative amount hauled as part of this program is extremely small and therefore unlikely to have any groundwater impact.

Item 12 - Staff Reports

- a. General Manager's Report
- b. Monthly Budget Report
- c. Legislative Update
- d. Outreach Activities
- e. Drought Update
- f. Capital Projects Status Report
- g. Update Related to the Bay Delta Conservation Plan
- h. Update on Zone 7 Vehicle Fleet and GPS
- i. Ground Movement Study - Livermore Valley
- j. Verbal Reports

The Board went into closed session at 8:45 p.m.

Item 13 - Closed Session

- (a) Government Code Section 549547; Public Employee Performance Evaluation
Title: General Manager
- (b) Conference with Legal Counsel - Significant exposure to litigation pursuant to Gov't Code Section 54956.9(d) (2):
3 cases
- (c) Conference with Legal Counsel - Potential litigation pursuant to Gov't Code section 54956.9(d) (3): 1 case
- (d) Conference with Legal Counsel - Existing litigation pursuant to Gov't Code Section 54956.9(d) (1):
Alameda County Flood Control and Water Conservation District, Zone 7 v. Pleasanton Gravel Co.,
Alameda County Case No. HG14724177
- (e) Conference with Labor Negotiators:
Agency Negotiator: G.F. Duerig
Employee Organizations: Alameda County Management Employees Association; Alameda
County Building and Construction Trades Council, Local 342, AFL-CIO; International
Federation of Professional and Technical Engineers, Local 21, AFL-CIO; Local 1021 of the
Service Employees International Union, CTW; Unrepresented Management.

Item 14 - Open Session and Report Out of Closed Session

The Board came out of Closed Session at 9:00 p.m. and President Greci reported that there were no reportable actions taken in Closed Session.

Item 15 - Adjournment

The meeting was adjourned at 9:02 p.m.