

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

July 16, 2014

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

DIRECTORS: SANDY FIGUERS
JOHN GRECI
JIM MCGRAIL
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
TOM HUGHES, ASSISTANT GENERAL MANAGER, ADMINISTRATION
JUDY RECTOR, BOARD SECRETARY

COUNSEL: DAVID ALADJEM, DOWNEY BRAND

Item 1 - Call Meeting to Order

Item 1 a - Swear in Recently Elected Directors

Board Secretary Judy Rector administered the oath of office to recently elected directors John Greci, Bill Stevens, Sarah Palmer and Jim McGrail.

Item 2 - Pledge of Allegiance

President Stevens led a salute to the flag.

Item 3 – Reorganization of the Board

President Stevens opened nominations for Board President.

President Stevens nominated Director John Greci for President of the Board of Directors and Director Palmer seconded the nomination. After a voice vote of 7-0 by the Board, the nomination was confirmed. President Greci thanked Director Stevens for holding the seat of President of the Board this past year and noted that he did a great job keeping the Board organized despite many contentious issues which required a lot of attention.

President Greci explained his rationale in picking his Vice President. He wanted someone who would be there with him, understands the criteria necessary to perform the Board's job, and represent Zone 7

in the best manner possible. Director Sarah Palmer was nominated by President Greci and Director Quigley seconded the nomination. Vice-President Palmer's nomination was confirmed by a 7-0 voice vote.

President Greci will base his selection of board committee members on three criteria:

1) the function of the committee; 2) the background and experience the individuals have had with Zone 7; and 3) if a director expressed interest in a certain committee. He will announce the committees later and give the Board Secretary the list to distribute.

Item 4 - Citizens Forum

Margaret Tracy read an open letter to the Board:

TO: Zone 7 Agency Officers & Staff and Members of the Board of Directors

FROM: Margaret J. Tracy, Member of Board of Directors, 1978-1994

Request response from each Director to the questions below:

1. What are your plans in the current fiscal year to remove toxics now in the groundwater basin?
How will this process be funded?
2. What are your plans for removing endocrine disrupters which interfere with both male and female reproductive systems? How will this process be funded?
3. Do you support reducing toxics in the groundwater basin in the next fiscal year?
4. Do you support a prohibition of recycled water of wastewater origin being used in our groundwater basin?

President Greci said that the Board does not react to issues brought up in Citizens Forum but will submit her questions to staff and she will receive answers from them.

Item 5 - Minutes of the Regular Meeting of June 18, 2014

Director Palmer made corrections to the minutes for the July 16 board meeting. She added the following language to Page 3 concerning Item 8 on the Proposed Budget: "One of the reasons the drought surcharge was not included at this time and staff decided to wait until fall is because we want to have a better idea of what drought costs will be this summer **and the Board felt that the emergency reserves were well used in this way.**"

Director Ramirez Holmes noted on Page 4, third full paragraph, she added a word to the sentence "Director Ramirez Holmes agreed with Director Quigley and said that because Zone 7's budget is made up of many funds, **sometimes** the Finance Committee did not catch things until they saw the audit."

Director Quigley moved and Director Palmer seconded the motion to approve the corrected minutes. The corrected minutes were approved by a voice vote of 7-0.

Item 6 - Consent Calendar

Item 6(a) – Resolution of Commendation for Retiring Board Member AJ Machaevich

General Manager Jill Duerig read comments from Mr. Machaevich to the Board in his absence:

“He was very happy to work on the Board for the last four years and he appreciates the public’s trust. He expresses his gratitude to the public for letting him serve on the Board. He also thanks the Board and his fellow Board members.”

The proclamation/resolution was read to the audience. Director Stevens moved for approval and Director Quigley seconded the motion which was approved by a voice vote of 7-0.

Resolution No. 14-4376 The Zone 7 Board of Directors acknowledges, commends and thanks Mr. Machaevich for his fine public service on the Board. (Item 5a)

The directors that served with Mr. Machaevich added comments including compliments on Mr. Machaevich’s expertise in technology and background in management which helped the Board be better-rounded, he had a calm approach to the issues, his emotions never overrode his rational thinking, he was very good at communicating with people which was helpful for all of them on the Board.

Item 7 - Staffing Update:

Ms. Duerig announced that the May Employee of the Month is Tim Brown, Facilities Maintenance & Construction Supervisor, who works in the Maintenance section at the Del Valle Water Treatment Plant. The Board applauded Mr. Brown in absentia.

Item 8 – Contract for Weed Control Spraying Services

Kurt Arends, Assistant General Manager, Engineering, reviewed the item which was originally presented to the Board in April but was held over. In 1998 Zone 7 entered into an annual contract with Alameda County for spraying services for weed control, landscape maintenance, miscellaneous trash removal and emergency support services. In 2013 the Board approved a one-year extension of that contract which gave staff the opportunity to solicit bids for those services from more local and responsive agencies. Through the RFP process, ten proposals were received and Livermore Area Recreation and Park District (LARPD) was chosen. A letter of protest from one of the proposers, Pacheco Brothers, raised issues about the sphere of influence and attendance at pre-bid meetings but the letter was received just before the April Board meeting so the item was continued. General Counsel David Aladjem recommended pulling the item from the agenda to allow more time to investigate and respond to the protest. A letter responding to the protest was sent from General Counsel David Aladjem to Pacheco Brothers and distributed to the Board members.

In reviewing the bid proposals and the protest, staff again recommended that the contract be awarded to LARPD. Their ability to provide the service best suits Zone 7’s needs as a public agency because they are familiar with the role of a public agency working under stringent regulatory conditions such as monitoring, working with the public in a public setting (i.e., maintenance roads which also have recreational access under licenses with the cities), being sensitive to the neighbors that abut the property to the trail users and working under a regulatory permit that has requirements that need to be met. Staff feels this is the best opportunity to get this service from a local entity at a reasonable price. The recommendation is to award the contract to LARPD.

Director Palmer commented that she is pleased to see a local agency that understands the local issues. Director Quigley agreed and complimented staff by saying the package was well put together. Director Ramirez Holmes asked if this is a different contract than Zone 7 has with the County. Mr. Arends said the original contract with the County was for \$400,000 and included spraying services

and landscaping channels if needed, trimming trees and bushes, material removed such as trash along the trails, homeless encampment cleanup and other miscellaneous work. Staff identified how much of that contract was actually spraying rather than other miscellaneous services and determined that the cost for spraying was about \$200,000. The remainder of the scope of work was absorbed into other contracts such as Fanfa, East Bay Conservation Corps, Urban Creeks Council and the California Conservation Corps with slight increases to these contracts for additional work totaling about \$150,000 but staff has accommodated the other work and providers for those services without exceeding the amount of the original contract with the County. This contract is strictly for spraying roadways, slopes of channels and aquatic spraying, one of the most difficult services with the highest regulatory compliance because of spraying into the waterways under Zone 7 permits.

Director Ramirez Holmes said she did not see the County listed as responding to the RFP and how were they made aware that Zone 7 was not continuing with them. Due to the one-year extension because staff would be soliciting bids, the County and their crew were aware of the situation.

Director Stevens said that we will be seeing interagency cooperation with local agencies more often.

Director Palmer moved for approval and Director Quigley seconded the motion which was approved by a roll call vote of 7-0.

Resolution No. 14-4377 Authorized a contract with Livermore Area Recreation and Park District.
(Item 8)

Item 9 – Committees – None.

Item 10 - Reports - Directors

a. Verbal comments by President

President Greci welcomed Director McGrail to the Board. He said the more interactions we have with each other in helping each other grow and learn about the organization reinforces our ability to do what we do and he encouraged other Board members to help expedite Director McGrail's learning curve, including history, with Zone 7.

b. Written report by Director Quigley - none.

Director Quigley had a verbal report on the ACWA Region 5 meeting October 19 and 20th at the Martinelli Center. Director Quigley has been involved in meeting planning and there will be a lot of great speakers and panels. On the 19th there will be a tour of DWRs Del Valle pumping plant along with a networking session.

c. Other Directors' Verbal Reports

Director Palmer welcomed Director McGrail and noted he will make a fine addition to the Board as a representative from the agricultural community. She also noted that she received an anonymous letter but she does not respond to them or help people with their personal vendettas.

Director Figuers said that he is delving into the files and history of Zone 7 and is up to about 1978.

He anticipates giving the third part of his finance presentation and says the research has been fascinating. He has been tracking how money has been spent and the impact of the drought in 1976 and Proposition 13.

Item 11 - Items for Future Agenda - Directors

Item 12 - Staff Reports (Information items.)

- a. General Manager's Report
- b. Monthly Budget Update
- c. Legislative Update
- d. June Outreach Activities
- e. Drought Update
- f. Verbal Reports

Ms. Duerig added a verbal report about a meeting the previous week between the State Water Contractors (SWC) and the Department of Water Resources (DWR) in which DWR discussed their under billing. Even their original estimate for under billing was half of what they are going to charge and instead of \$1.2 million, the total may be closer to \$2.5 million. State Water Contractors are meeting with DWR to see if that number can be reduced. DWR says most of the increase is due to new hires and increased wages. This was supported on some level by the SWC because DWR was having retention issues and losing expertise and there were operational impacts; however, the questions the Contractors are asking are they really going to have these increases, how real are the new projections, and when will they impact the bottom line and the bills? Ms. Duerig will keep the Board informed as this evolves.

Director Figuers said in studying Zone 7 history he knows the contract with DWR was signed in about 1963 and one year later we started with this identical problem. DWR asked for an increase and it has been the same scenario since then for the same reasons.

Director Palmer commented she liked the link that was included in the General Manager's staff report for Dr. Sunding's presentation at the Water Law conference in San Diego on costs of constructing the alternative Delta conveyance. She is pleased with results of the Zone 7 internship program.

Director Ramirez Holmes asked for a brief summary and the highlights for 12e Drought Update. Ms. Duerig reported that projects are going well. The Cope Lake and Lake I connection is now in the ground and complete. The driller has been hitting some issues in Chain of Lakes #5 but the rest of the construction is moving forward as planned. Staff may be coming back to the Board and recommending an increase for that project because drilling rates are at a premium.

Zone 7 is trying to use the balance of the surface water and groundwater to minimize how much of the groundwater basin is being drawn down while trying to preserve what little surface water is there because if it needs to be increased for a short period of time, there will be surface water which keeps water in the canals for the untreated users. Water quality in the Delta is declining due to factors causing additional treatment challenges. If it gets worse, we will start drawing down Lake Del Valle and blending to keep the water in the canals for the agricultural users although the poor quality is starting to impact the growers. The community is stepping up and June was a great month as people did conserve so we were came in under our target.

Director Ramirez Holmes wanted to make sure we are thanking the public for their conservation efforts as this is not an easy time to watch your lawn go dormant and to implement inconvenient things like buckets in residents' showers and not planting for the year, but the numbers are hopeful and it takes pressure off of everyone. Given the conservation numbers that were published recently across the State, she wanted to thank people for being a partner with Zone 7 during this time of drought.

Director Quigley shared a new ACWA-produced document from an ACWA committee, Impacts and Strategies for Drought Resilience. Zone 7 is mentioned along with Region 5 ACWA members and the impacts on the Bay Area and how members banded together and are working on a solution.

Director Stevens commented that perhaps a report should be requested on what positions DWR is hiring to fill and why they need the additional money. Ms. Duerig said the State Water Project is not out of the general fund, it is a pass through, so whatever charges there are to the State Water Project, they get passed on to the State Water Contractors. The State Water Contractors have formed an audit finance committee to better track the expenditures because of the ongoing concern regarding how DWR charges the contractors. Last year Zone 7 got a \$1.2 million overcharge and then it was credited. Ms. Duerig will try to get details for the Board. Director Stevens said DWR's actions will unfairly impact our water rates because of the drought.

Director Ramirez Holmes said the Retreat Agenda item was to be continued from the June meeting. Because the date of the retreat was moved from August to July, she asked if the Board was still discussing the retreat agenda as she had not seen one yet. Ms. Duerig said we put together a draft agenda with comments from the last meeting, discussed it with President Greci, and it will be finalized and sent out within a day. Director Stevens said the date had changed to accommodate the Directors' schedules because a full board was needed for the meeting. Not everything will be accomplished in that one retreat and perhaps a second retreat will be needed.

The board went into closed session at 7:46 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 9:30 p.m. and President Greci reported there were no reportable actions taken in closed session.

Item 15 - Adjournment

The meeting was adjourned at 9:31 p.m.