

**DUBLIN SAN RAMON SERVICES DISTRICT
MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS**

October 1, 2013

A regular meeting of the Board of Directors was called to order at 6:00 p.m. by President Dawn L. Benson. Boardmembers present: President Dawn L. Benson, Vice President Georgean M. Vonheeder-Leopold, Director Edward R. Duarte, Director D.L. (Pat) Howard, and Director Richard M. Halket. District staff present: Bert Michalczyk, General Manager; David Requa, District Engineer/Assistant General Manager; Lori Rose, Financial Services Manager/Treasurer; Levi Fuller, Operations Supervisor; Michelle Gallardo, Interim Organizational Services Manager; Carl P.A. Nelson, General Counsel; and Nicole Genzale, Administrative Analyst I.

1. CALL TO ORDER
2. PLEDGE TO THE FLAG
3. ROLL CALL - Members: Benson, Duarte, Halket, Howard, Vonheeder-Leopold
4. SPECIAL ANNOUNCEMENTS/ACTIVITIES

General Manager Michalczyk introduced Lt. Col. Christopher (Chris) Gerdes who was placed in command of Camp Parks in July and will serve there for two years. He was previously stationed at the Pentagon in Washington D.C. and originally hails from Ohio.

Lt. Col. Gerdes greeted the Board and thanked Mr. Michalczyk for the invitation to the meeting. He stated that he is pleased to serve at Camp Parks and be a part of the Dublin community. He mentioned that the District should not hesitate to contact him if he can be of assistance to the District.

President Benson welcomed Lt. Col. Gerdes and stated that the District thinks highly of Camp Parks and thanked him for the support the base provides to the District.

5. PUBLIC COMMENT (MEETING OPEN TO THE PUBLIC) – 6:02 p.m.
6. REPORTS
 - A. Reports by General Manager and Staff
 - Event Calendar – General Manager Michalczyk reported on the following:
 - o Ms. Nicole Genzale is present at tonight's meeting as Acting District Secretary in place of Nancy Gamble Hatfield. Mr. Levi Fuller is present at tonight's meeting as Acting Operations Manager in place of Dan Gallagher.

- Correspondence to and from the Board

Date	Format	From	To	Subject
9/3/13	USPS	Susan Muranishi & Mary Welch/County of Alameda	President Benson	Invitation to Alameda County's 10 th Annual Disability Employment Awareness Conference and Training
10/1/13	Email with attached letter	Mr. Suico/ Shapell Homes	President Benson	Expiring Water Capacity (Item 9B)

B. Committee Reports

Personnel
Finance

September 9, 2013
September 23, 2013

President Benson invited comments on recent committee activities. Directors felt the available staff reports adequately covered the many matters considered at committee meetings and made a few comments about some of the committee activities.

- C. Agenda Management (consider order of items) – No changes were made.

7. APPROVAL OF MINUTES – Regular Meeting of *September 3, 2013*

Director Howard MOVED for the approval of the September 3, 2013 minutes. Director Vonheeder-Leopold SECONDED the MOTION, which CARRIED with FIVE AYES.

8. CONSENT CALENDAR

Director Duarte MOVED for approval of the items on the Consent Calendar. Director Vonheeder-Leopold SECONDED the MOTION, which CARRIED with FIVE AYES.

- A. Approve Contract with the Army for Studies Related to Plan of Services for Army Cantonment Area – Approved – Resolution No. 40-13
- B. Upcoming Board Calendar – Approved
- C. Report of Checks and Electronic Disbursements Made – Approved

Date Range	Amount
08/26/13 – 09/22/13	\$5,592,164.50

9. BOARD BUSINESS

A. Reconsideration of the Board's Prior Decision Related to the Safety Officer Position

Director Howard MOVED to re-open the discussion to reconsider the Board's prior decision related to refilling and funding the Safety Officer position. Director Duarte SECONDED the MOTION, which CARRIED with FOUR AYES and ONE NO (Halket).

Director Duarte opened the discussion by stating that he is not advocating against spending funds for safety. He stated that because of his background in the construction industry, specifically the heavy construction industry, he correlates that work to what the District does at the Wastewater Treatment Plant. He spoke to two construction companies with over 125 employees regarding the position of Safety Officer in those organizations. He learned that they do not employ a full-time position due to budget constraints, opting instead to put a program in place then support it with a part-time position or consultant help.

He stated that the District's safety culture, as it currently exists, appears to be good in light of the absence of a Safety Officer for over two years. He stated that if it were otherwise, there would have been a multitude of accidents. He noted, however, that there is still room for improvement and additional training. He stated that after he reviewed the job description that it is incomprehensible to him that this type of position would command the salary specified in the District's MOUs with its bargaining units. He stated that conducting comparisons of the position's salary to numerous other public agencies does not justify the cost. He stated that if the District is transitioning to an operations and maintenance organization, things have to change. Downsizing and more efficiency are watchwords for both private and public sector organizations alike.

Director Duarte then reviewed the slide presentation he submitted (a proposal from Citadel to provide safety services to the District), which was also included in the Board agenda packet. He stated that the District should be open-minded about ways to save money and manage the workforce, not necessarily refilling positions. He stated that he has no relationship to the consulting firm that provided this information and located it via a search for firms that do this type of work. The consultant gathered information from a tour of the Wastewater Treatment Plant and the District's web site, and was instructed by him to provide a conservative safety plan.

Director Duarte went on to state that while the figures in the presentation are not absolute, they do illustrate a concept for potential cost savings in the current budget for this position and should bear the position's reconsideration. He does not think it necessitates a change to the budget at this time. He also reviewed the

job description and, though lengthy, he still does not believe the position should be full-time.

President Benson stated that the information was thought provoking and deserved a second look.

Director Howard commented that it was unfortunate that Mary Gordon, former Organizational Services Manager, was not here, as she was an advocate of this position. He stated that he wonders if the Safety Officer position is a 40-hour a week job.

Director Duarte stated that he thinks some duties in the Safety Officer job description could fall into other areas and that the work could be done with a part-time position. He also stated that he does not want staff to think that he is trying to short-change them by taking away a position that is needed, reiterating the importance of a safety program, culture and training.

V.P. Vonheeder-Leopold stated that when Director Duarte first presented this matter, she went along with the rest of the Board because of the issues associated with re-opening the applicable MOU and potentially affecting existing employees. She also stated that Director Duarte has a good point to consider. As the organization moves to an operations and maintenance mode, it may be time to consider the Safety Officer position becoming a contract position due to it not warranting 40 hours and to take advantage of the expertise that contractors could offer. Seeing that the position has been empty for two years suggests to her that the position is not critical. She acknowledged that during goal setting it was agreed that this position was important and that deficiencies need to be corrected. She also acknowledged that, due to the recruitment currently underway for this position, this is not an ideal time to be reconsidering this. She expressed her long-held view that the District pays more than what would be paid in the outside world. Public agencies are accused of over spending and this could be a good alternative to adding an employee. She stated that she is on the fence with this matter due to consideration of cost and employee contracts.

Director Halket stated that he has two major issues with what the Board is contemplating in this discussion. He recalled a similar experience regarding the Board's examination of the District's Pay for Performance program. He stated that when a body like this takes a position it should only be reopened based on unusual or extraordinary circumstances. He stated that he is reluctant to reopen any issue that has already been decided, but would be open to reconsidering a matter if it made sense. He noted the information presented in Attachment 6, Statement from David Patzer, CSRMA (California Sanitation Risk Management Authority) Risk Control Advisor. He stated that in reviewing the Risk Control Staffing Comparison, he is unsure if comparing the District's operations to a construction company is valid, citing that the District has different characteristics, including two industrial facilities and a lab. The District is unique in comparison

to other companies and organizations. The District currently has 109 employees and one safety officer, which is a high ratio, and suggests that the District's safety function is understaffed. He stated that he finds the Ex-Mod chart even more troubling as it shows a definite trend up in Workers Compensation incidents from when the Safety Officer position was removed in fiscal year 2010. He does not want employees hurt and the District to bear unneeded financial impact. He stated that he was on the Board when an employee passed away and he does not want to do anything that could allow that to happen again. If having a full-time Safety Officer can help mitigate a situation like that from ever occurring again, he supports it. The Safety Officer position does more than just industrial safety as it oversees the entire agency's security and emergency preparedness operations. He stated that the District is already on the outer bounds with allocating one safety position to 109 employees and feels that the Board should leave well enough alone.

V.P. Vonheeder-Leopold suggested sending the item to the Personnel Committee for further deliberations.

General Manager Michalczyk clarified that this item would be agendaized for the Personnel Committee if that was the Board's direction, but asked the Board to clarify specifically what questions they would like to see the Committee consider.

Director Halket stated that an approved motion would be necessary to send the matter back to Committee.

Director Duarte MOVED to send this item back to the Personnel Committee. Director Vonheeder-Leopold SECONDED the MOTION, which CARRIED with THREE AYES and TWO NOES (Halket and Howard).

Mr. Michalczyk requested clarification from the motion maker as to what specifically is being sent back to the Personnel Committee.

Director Duarte stated that he felt he had little option but to vote for the Operating Budget when this position was brought up originally, which did not allow him much chance to affect change. He would like the item sent back to the Personnel Committee in order to provide another argument as to why this position should be full-time. The Ex-Mod increasing over the last few years could be attributed to things other than accidents. He does not support the thought that the Board cannot reverse previous decisions. He stated that he feels the District is accountable to the public first and employees second, which means that a balance needs to be found for the good of both sides. If the Personnel Committee feels adamant that the position be filled now and revisits the matter in three years when the Memorandum of Understanding is up for negotiation, he feels the Board will not have made a difference.

After some discussion regarding what the approach should be in revisiting this matter, Director Duarte responded that the crux of the matter is the justification of the full-time FTE for the position and confirmed that he would like the Personnel Committee to reexamine the authorization of the FTE for the Safety Officer position in this year's budget.

Director Howard inquired as to what recommendations the Personnel Committee might make.

Mr. Michalczyk responded that the Committee could come back with a recommendation to de-authorize the FTE and appropriately adjust the budget. If there is no recommendation or a split recommendation by the Committee, in accordance with the Board's "Guidelines for Conducting District Business" that would mean that the previous Board policy would stand and be reported back to the Board as such.

Mr. Michalczyk alerted the Board to the fact that the recruitment process for this position is near its end. A candidate has been selected and is in the background check process now. In the absence of Board action to the contrary, management is prepared to move forward with the job offer. Mr. Michalczyk expressed his concern that if this matter is not resolved quickly a quality candidate may be lost and additional funding would unfortunately be expended to begin the recruitment process again. He asked that whatever is the Board's ultimate decision, that the decision be rendered quickly.

President Benson and V.P. Vonheeder-Leopold both stated that they felt the Board item contained enough documentation to carry the item to the Personnel Committee.

Mr. Michalczyk confirmed that the next Personnel Committee meeting is scheduled for Monday, October 7, which would make it possible for the item to return to the Board on October 15.

Director Howard inquired as to what would happen if the Committee does not recommend the item return to the Board.

Mr. Michalczyk responded that, according to the Board's "Guidelines for Conducting District Business," if the Committee's deliberations as reported in the minutes to the Board were not satisfactory to a Boardmember, the Boardmember could then have the item re-agendized for Board discussion.

President Benson confirmed that the item shall be placed on the October 7 Personnel Committee agenda with materials as presented to the Board tonight and will then be sent to the October 15 Board meeting.

Director Duarte thanked the Board for the opportunity to make his presentation.

B. Resolution Addressing Expiring Water and Wastewater Capacity Rights and Rescinding Resolution Nos. 23-11 and 7-13

General Manager Michalczyk stated that District Engineer Requa and Financial Services Manager Rose would brief the Board on this item due to his being absent from the last Finance Committee meeting where the matter was deliberated and that Committee's recommendation formulated. He also reminded the Board of the letter received from Shapell regarding this matter.

District Engineer Requa briefed the Board on the background related to this item and summarized the direction received from the Board at the August 6 Board meeting, when the item was originally presented for the Board's consideration. He summarized that direction as: 1) the "true-up adjustment," or recalculated basis, is to be as of the time the capacity rights expire rather than their date or original purchase; 2) eliminate the three year expiration for capacity rights that are currently in effect; and 3) provide some reasonable protections to the District to address future situations where capacity may not be available. Mr. Requa stated that this last point was not addressed in the item due to the fact that there is adequate wording in the District Code to address this should it be necessary. The matter was next discussed on August 23 by the Finance Committee.

Developers who have been following this discussion have cited that the current system creates a financial burden to them as projects can take a number of years. In today's economy, development projects are smaller and spread out over a longer period of time.

In response to the Board direction and in consideration of the issues raised by the development community, Mr. Requa stated that staff revised the approach to the issue breaking it into two steps: 1) a Resolution that takes all existing capacity rights, and those that will be purchased until the Code revision is implemented, and extends them indefinitely with implementation of a "true-up" fee for the connection fee at the time it would have expired to when they are actually used which is when the building permit is issued; and 2) a District Code amendment, targeted to be completed by the end of the year, that would provide that all future connection fees would be paid at the time the building permit is issued. This would enable developers on a going forward basis to purchase connection fees for a handful of homes at a time, improving their cash flow due to making smaller and more frequent payments to the District, instead of making large payments for many homes at one time. He then deferred to Financial Services Manager Rose to review the financial impact of this proposal to the District.

Financial Services Manager Rose explained that the Finance Committee reviewed the proposal and provided the financial analysis, which is included in the packet. The Resolution, as currently written, will generate an estimated \$100,000, which presents a significant revenue gap that exists in the Water fund that arose when the water connection fees were last adjusted. This gap arose due to the delay in the adoption of

the water expansion fund, as compared to when the study was done, as well as the “rush to the counter” that occurred to beat the implementation of the new fee by purchasing capacity rights that had a life of three years, which are now being indefinitely extended. She stated that as a result, there exists approximately a \$7.2 million funding shortfall in the water expansion fund. She stated that from a financial perspective, the small additional revenue generated from this “true up” program will not cover the gap. This will lead to a significant capacity fee increase in the future and further expose District ratepayers to covering more of the debt used to build facilities to serve new development. She stated that in the next two years the Board will have to consider how to cover this unfunded \$7.2M gap going forward as needed to satisfy debt and projects as it is currently not built into either the capacity fees or the rates.

Director Howard inquired as to how new facilities would be funded if payments for capacity rights come to the District piecemeal.

Mr. Requa replied that most facilities are already in place. There are two reservoirs still to be built in Dublin, but most home building is infill in relation to reservoir location.

Mr. Michalczyk stated that when faced with this situation, as was the case with reservoirs and LAVWMA, the only answer is borrowing additional money to build the facilities.

Director Howard commented that there is a lot of talk about a “Bay Area Plan” and wondered what the City of Dublin’s development plans could be in the future. A situation could come along requiring the District to build facilities.

Mr. Michalczyk responded that theoretically that could happen, citing that a similar situation occurred 15 years ago when the cities that the District served both embarked on massive development projects.

Mr. Michalczyk commented that these are good questions to ponder. However, he reminded the Board that the matter on the table is the extension of the life of existing capacity rights. One of the items contained in the Resolution is to direct staff to bring back a Code revision to address the issues that Director Howard is raising.

The Board and staff briefly discussed administration of the new program.

Director Howard MOVED to adopt Resolution No. 41-13, Amending the Economic Stimulus Water Capacity Rights Extension Program and Rescinding Resolution Nos. 23-11 and 7-13. Director Duarte SECONDED the MOTION, which CARRIED with FOUR AYES and ONE NO (Halket).

10. BOARDMEMBER ITEMS

V.P Vonheeder-Leopold reported that she attended the Alameda County Special Districts Chapter meeting on September 11, 2013. Mr. Paul Sethy, Vice President of the Alameda County Water District Board of Directors, gave a presentation on a new book published in February called The Alameda Creek Watershed Historical Ecology Study. It is a fascinating book that discusses the path to where things stand now and the things that are working incorrectly due to not following the watershed properly. She submitted a written report to Acting District Secretary Genzale. She also reported that she has also been appointed to the CASA Program Committee which starts next week.

President Benson reported that she also attended and enjoyed the Alameda County Special Districts Chapter meeting presentation regarding the watershed on September 11, 2013 and is interested in reading the book. She mentioned that the presentation was fascinating and explained that the watershed was discovered by accident in the Santa Cruz area. She also commented that Zone 7 was a great host.

11. CLOSED SESSION

General Manager Michalczyk reported that in addition to himself, attendees for Closed Sessions 11.A & 11.B would be Dave Requa, Lori Rose, and General Counsel Carl Nelson, and for Closed Sessions 11.C & 11.D would be Michelle Gallardo and General Counsel Carl Nelson.

At 6:52 p.m. the Board went into Closed Session.

- A. Conference with Real Property Negotiator – Pursuant to Government Code Section 54956.8
Property: Water Supply Contract & leases of portions of Tassajara Reservoir, 5450 Tassajara Road, Dublin, and pipeline beneath Fallon Road
Agency Negotiators: Bert Michalczyk, General Manager
David Requa, Assistant General Manager/District Engineer
Lori Rose, Financial Services Manager
Dan Gallagher, Operations Manager
Carl P.A. Nelson, General Counsel
Negotiating Parties: City of Pleasanton
Under Negotiation: Terms and Conditions
- B. Conference with Legal Counsel Anticipated Litigation. Significant exposure to litigation pursuant to paragraph (2) of (3) of subdivision (d) of Government Code Section 54956.9: One Case.
- C. Public Employee Performance Evaluation – Pursuant to Government Code Section 54957
Title: General Manager

- D. Conference with Labor Negotiators – Pursuant to Government Code Section 54957.6
Agency Designated Representative: Bert Michalczyk, General Manager
Unrepresented Employee: Interim Financial Services Manager

12. REPORT FROM CLOSED SESSION

At 7:14 p.m. the Board came out of Closed Session. President Benson announced that there was no reportable action.

13. ADJOURNMENT

President Benson adjourned the meeting at 7:15 p.m.

Submitted by,

Nicole Genzale
Administrative Analyst I

For: Nancy Gamble Hatfield
District Secretary