

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

March 3, 2015

A special meeting of the Board of Directors was called to order at 5:30 p.m. by President Edward R. Duarte. Boardmembers present: President Edward R. Duarte, Vice President D.L. (Pat) Howard, Director Richard M. Halket, and Director Georgean M. Vonheeder-Leopold. Director Dawn L. Benson was absent. District staff present: Bert Michalczyk, General Manager; Dan McIntyre, Engineering Services Manager; John Archer, Administrative Services Manager/Treasurer; Dan Gallagher, Operations Manager; Robert B. Maddow, Assistant General Counsel; and Nancy Gamble Hatfield, District Secretary.

1. CALL TO ORDER
2. PLEDGE TO THE FLAG
3. ROLL CALL - Members: Benson, Duarte, Halket, Howard, Vonheeder-Leopold
4. PUBLIC COMMENT (MEETING OPEN TO THE PUBLIC) – 5:31 p.m. – There was no public comment received.

President Duarte stated that there was a need for the Board to add an item to the agenda to hold a closed session conference with District General Counsel concerning a significant exposure to litigation.

Assistant General Counsel Maddow announced the need for this conference arose in the last 90 minutes, and it therefore was appropriate for the Board of Directors to add it to the agenda.

V.P. Howard MOVED to add a Closed Session concerning significant exposure to litigation to tonight's agenda under Government Code section 54956.9(d)(2). Director Vonheeder-Leopold SECONDED the MOTION.

The MOTION CARRIED with FOUR AYES, ONE ABSENT (Benson).

President Duarte announced the attendees for the Closed Session will be: Directors Vonheeder-Leopold, Halket, Howard, Duarte; Carl Nelson, General Counsel, Robert Maddow, Assistant General Counsel; Administrative Services Manager John Archer; Operations Manager Dan Gallagher; Engineering Services Manager Dan McIntyre; and General Manager Bert Michalczyk.

- 6.B ADDED CLOSED SESSION – Conference with Legal Counsel – Anticipated Litigation. Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9

At 5:33 p.m. the Board went into Closed Session.

7. REPORT FROM CLOSED SESSION

At 5:53 p.m. the Board came out of Closed Session. President Duarte announced that there was no reportable action.

5. BOARD BUSINESS

A. CEQA Notice of Exemption for Agreement between EBMUD and DSRSD for 2015 Wheeling of Transfer Water

Operations Manager Gallagher reported this agenda item was for the Board to consider approval of a filing of a Notice of Exemption for the proposed water transfer and wheeling through EBMUD.

Assistant General Counsel Maddow stated the recommendation before the Board addresses a limited portion of all of the facilities and activities related to the subject transaction. Mr. Maddow noted the Board is aware the District seeks to purchase water from Yuba County Water Agency (YCWA) pursuant to the Yuba Accord. This project would take advantage of existing facilities and existing regulatory approvals that Yuba has attained that enable Yuba to transfer water to the District. Water would be collected at an authorized diversion location which is the EBMUD intake at Freeport on the Sacramento River.

The District is considering accepting deliveries of transfer water during the continuing drought at existing emergency interties with EBMUD. The proposal qualifies as a categorical exemption from the California Environmental Quality Act (CEQA).

Mr. Maddow explained that CEQA has a statutory exemption that deals with measures necessary to mitigate an emergency. He explained that in this particular instance, there are a number of declarations of emergency in place including a declaration and extended declarations by Governor Brown, by the Zone 7 Water Agency, and by the District Board. The statutory exemption available enables the District Board to use this exemption for actions related to addressing the drought, so that no further environmental documentation is necessary for this action that is intended to help mitigate the drought emergency.

Speaker: Zone 7 General Manager Jill Duerig – Ms. Duerig stated that she had no specific objections or comments on the CEQA analysis. She stated that she wanted to go on record and object in general to the transfer and import of water from the Yuba Accord by way of the EBMUD Wheeling agreement. She noted the District has already received a letter of opposition sent by her earlier today.

Director Vonheeder-Leopold MOVED to adopt Resolution No. 9-15, authorizing the General Manager to Execute and File a Notice of Exemption from the

California Environmental Quality Act for the Wheeling of up to 1,500 Acre-Feet of Yuba Accord Transfer Water to the District's Service Area during 2015. V.P. Howard SECONDED the MOTION, which CARRIED with FOUR AYES, and ONE ABSENT (Benson).

B. Water Purchase Agreement between DSRSD and Yuba County Water Agency (YCWA) for 2015 Transfer Water

Operations Manager Gallagher presented the proposed water purchase agreement between Yuba County Water Agency and Dublin San Ramon Services District for 1,500 AF of transfer water. Mr. Gallagher submitted a revised resolution and explained the revision includes additional detail in several of the recitals. He also noted the agenda packet inadvertently did not include a copy of the proposed agreement with Yuba County Water Agency, so a copy was distributed tonight.

Speaker: Zone 7 General Manager Jill Duerig – Ms. Duerig stated she wanted to go on record to say Zone 7 strongly objects to the Yuba water acquisition and that they feel it violates the contract between Zone 7 and the District. She also expressed dismay with the urgency and quickness in which this item is being considered and what she stated as the lack of meetings and open and transparent discussions between the staffs to analyze the impacts of the District's actions on the rest of the Valley.

Director Vonheeder-Leopold MOVED to adopt the revised Resolution No. 10-15, authorizing the General Manager to Execute an Agreement with the Yuba County Water Agency (YCWA) for the Purchase of up to 1,500 Acre-Feet of Transfer Water during 2015. V.P. Howard SECONDED the MOTION, which CARRIED with FOUR AYES, and ONE ABSENT (Benson).

C. Warren Act Contract between DSRSD and the US Bureau of Reclamation to Facilitate 2015 Transfer Water

Operations Manager Gallagher reported this item is for a proposed Warren Act Contract between the District and the United States Bureau of Reclamation (USBOR). This contract is necessary because the proposed transfer water will be conveyed from the EBMUD Freeport facilities through the Folsom South Canal, which is a Federal facility. The actual Warren Act Contract will not be prepared by USBOR until the agency completes its environmental review of the proposed diversion. For the Board's reference, the agenda materials contained a sample Warren Act Contract.

Mr. Gallagher submitted a revised resolution that contained additional detail in several of the recitals. Approval of the resolution will authorize the General Manager to execute the Warren Act Contract when it is prepared within the next few weeks.

Speaker: Zone 7 General Manager Jill Duerig – Ms. Duerig stated she wanted to go on record opposing this action along with the other actions taken earlier this evening by the Board.

Director Halket asked Mr. Maddow if there was any risk to approve the pro forma Warren Act Contract.

Mr. Maddow stated he did not have a reason to suspect any problems with the Warren Act Contract, but if any areas of concern developed, staff would return to the Board for further consideration.

V.P. Howard MOVED to adopt the revised Resolution No. 11-15, authorizing the General Manager to Execute an Agreement with the United States Bureau of Reclamation (USBOR) for the District's use of the Folsom South Canal to convey up to 1,500 Acre-Feet of Transfer Water during 2015. Director Halket SECONDED the MOTION, which CARRIED with FOUR AYES, and ONE ABSENT (Benson).

D. Wheeling Agreement between DSRSD and EBMUD for 2015 Transfer Water

Operations Manager Gallagher presented the proposed Wheeling Agreement between DSRSD and EBMUD to move the transfer water from the Freeport intake through EBMUD facilities to the Folsom South Canal. From the Folsom South Canal, water will be pumped up into the Mokelumne Aqueduct and moved to EBMUD's terminal reservoirs in the Oakland Hills where it would be stored, treated and delivered to the District on a daily basis between June 1, 2015 and September 30, 2015.

Mr. Gallagher submitted a revised resolution that contained additional detail in several of the recitals. Approval of the resolution will authorize the General Manager to execute the Wheeling Agreement with EBMUD, and to provide notice to EBMUD to begin start up procedures for the Freeport Facilities at a time deemed appropriate by the General Manager.

Mr. Gallagher acknowledged in the audience EBMUD Manager of Water Supply Improvements Mike Tognolini.

Speaker: Zone 7 General Manager Jill Duerig – Ms. Duerig stated that Zone 7 opposes this action because they feel it violates the contract terms between Zone 7 and the District.

Director Halket MOVED to adopt the revised Resolution No. 12-15, approving and authorizing the General Manager to Execute an Agreement with the East Bay Municipal Utility District (EBMUD) for the Wheeling of up to 1,500 Acre-Feet of Transfer Water during 2015. Director Vonheeder-Leopold SECONDED the MOTION.

Director Halket noted the series of agreements approved tonight do not obligate the District to move any water but rather, set the framework to do so in several weeks. He applauded and thanked the work by Mr. Gallagher and EBMUD staff to improve the associated costs with this water transfer.

The MOTION CARRIED with FOUR AYES, and ONE ABSENT (Benson).

E. Consider Financial Impact of Potential Water Transfer from Yuba County Water Agency

Administrative Services Manager Archer reported this agenda item is a summary of the financial impacts on the District for the water transfer transaction. The District will buy water for future use and the approximately \$2.2 million costs will be spread over two fiscal years. The District has sufficient reserves to make the purchase if so desired, and will not lose money with this transaction as customers will be billed for the cost of the water. Approval of the resolution will authorize the General Manager to direct staff to make payments for the water transfer transactions approved tonight and any required budget adjustments.

Speaker: Zone 7 General Manager Jill Duerig – Ms. Duerig commented that the financial impacts will not be solely to the District. She stated there will probably be \$1 million or more out of Zone 7’s funds that will likely have to be managed by the other Valley retailers, and the Zone believes that is an imposition to the other retailers. She stated the Zone opposes approval of these transactions.

Director Halket MOVED to adopt Resolution No. 13-15, authorizing and approving payments for the Purchase and Transfer of Water from the Yuba County Water Agency, for Costs related to the Warren Act Contract, and for Costs related to the Agreement with East Bay Municipal Utility District for 2015 Wheeling of Transfer Water, and to direct related Budget Adjustments for Fiscal Year Ended June 30, 2015. Director Vonheeder-Leopold SECONDED the MOTION, which CARRIED with FOUR AYES, and ONE ABSENT (Benson).

6. CLOSED SESSION

A. NOT HELD Conference with Real Property Negotiator-Pursuant to Government Code Section 54956.8

Property: Potential Water Supply Contract

Agency Negotiators: Bert Michalczyk, General Manager
Dan Gallagher, Operations Manager
John Archer, Administrative Services Manager
Carl P.A. Nelson, General Counsel
Robert B. Maddow, Assistant General Counsel

Negotiating Parties: East Bay Municipal Utility District and Yuba County Water Agency

Under Negotiation: Price and Terms

8. ADJOURNMENT

President Duarte adjourned the meeting at 6:12 p.m.

Submitted by,



Nancy Gamble Hatfield
District Secretary