

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

October 15, 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 Georgan 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; John Archer, Interim Financial Services Manager Supervisor; Dan Gallagher, Operations Manager; 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 - None
5. PUBLIC COMMENT (MEETING OPEN TO THE PUBLIC) – 6:01 p.m.
6. REPORTS
 - A. Reports by General Manager and Staff
 - Event Calendar – General Manager Michalczyk reported on the following:
 - o On Monday October 21, 2013 at 5:30 p.m. the annual Neighborhood Update Meeting will be held at the Wastewater Treatment Plant. This meeting was not previously included as a formal meeting on the Board’s calendar but will be appropriately noticed as a Wastewater Committee meeting, per the Brown Act, as V.P. Vonheeder-Leopold and Director Duarte, who comprise the Wastewater Committee, will be in attendance.
 - o Item 8.A on the Consent Calendar, WWTP Fencing and Security – Phase I (CIP 12-P004): Approve License Agreement with Zone 7, is identified for the Board’s consideration for approval by motion; however, staff is requesting that the Board approve the agreement by resolution. A resolution better provides the permanent administrative record of the Board’s action. The resolution related to this agreement’s approval has been provided for the Board’s review at the dais. It is requested that whoever makes the motion to approve the Consent Calendar also include the resolution associated with this item.
 - o He requested that the Board hold a special Board meeting next week on Tuesday, October 22 at 6:00 p.m. to consider the various recycled water agreements between the District, Pleasanton and DERWA. He noted that the managers and legal counsels of all parties have reached agreement. In order to keep this effort on schedule, a meeting next week would be beneficial. He also noted that because Mr. Requa will be retiring on October 27, it would be appropriate for him to present these agreements to the Board for consideration. He noted that

Mr. Requa's efforts have been instrumental in bringing the parties together so he would like to afford Mr. Requa an opportunity to recommend formal approval of the agreements. The Board confirmed that a special Board meeting will be held on October 22 at 6:00 p.m. as requested.

- Correspondence to and from the Board – None.

B. Committee Reports
Personnel

October 7, 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)

General Manager Michalczyk recommended that Closed Session Items 11.A, 11.B, 11.C, & 11.D be moved directly after the Consent Calendar in an effort to have the smoothest flowing meeting possible. In addition, if the Board approves Item 8.C on the Consent Calendar, Closed Session Item 11.B will not be required.

7. APPROVAL OF MINUTES – Regular Meeting of *October 1, 2013*

Director Duarte MOVED for the approval of the October 1, 2013 minutes. V.P. Vonheeder-Leopold SECONDED the MOTION, which CARRIED with FIVE AYES.

8. CONSENT CALENDAR

Director Howard MOVED for approval of the items on the Consent Calendar, including the use of the proposed Resolution to approve Item 8.A. V.P. Vonheeder-Leopold SECONDED the MOTION, which CARRIED with FIVE AYES.

- A. WWTP Fencing and Security – Phase I (CIP 12-P004): Approve License Agreement with Zone 7 – Approved – Resolution No. 42-13
- B. WWTP Fencing and Security – Phase I (CIP 12-P004): Approve Capital Improvement Program Budget Adjustment – Approved – Resolution No. 43-13
- C. Approve Personal Services Agreement between the District and John J. Archer as Interim Financial Services Manager – Approved – Resolution No. 44-13
- D. Adopt Pay Schedule in Accordance with California Code of Regulations, Title 2, Section 570.5, Requirement for a Publicly Available Pay Schedule and Rescind Resolution No. 39-13 – Approved – Resolution No. 45-13
- E. Appoint Mr. John Archer as Treasurer – Approved
- F. Upcoming Board Calendar – Approved

11. CLOSED SESSION

At 6:04 p.m. the Board went into Closed Session.

- A. Conference with Legal Counsel – Anticipated Litigation. Significant exposure to litigation pursuant to paragraph (2) for (3) of subdivision (d) of Government Code Section 54956.9: One case.
- B. NOT HELD - Conference with Labor Negotiators – Pursuant to Government Code Section 54957.6
Agency Designated Representative: General Manager
Unrepresented Employee: Interim Financial Services Manager
- C. Conference with Labor Negotiators – Pursuant to Government Code Section 54957.6
Agency Designated Representative: General Manager
Unrepresented Employee: Interim Engineering Services Manager
- D. Public Employee Performance Evaluation – Pursuant to Government Code Section 54957
Title: General Manager

12. REPORT FROM CLOSED SESSION

At 6:15 p.m. the Board came out of Closed Session. President Benson announced that there was no reportable action.

9. BOARD BUSINESS

- A. WWTP Fencing and Security – Phase I (CIP 12-P004): Award Construction Agreement to McGuire and Hester

District Engineer Requa introduced the item and provided some background information for the Board. He stated that there are two separate parts to the action that staff has recommended the Board take. The first action is to reject the lowest bid based on the fact that the lowest bidder did not meet the project's specifications requiring a Workers' Compensation Experience Modification Rate of 1.0 or less. As a result, the second action is to award the project to the second lowest bidder, McGuire and Hester. Mr. Requa added that the bid is substantially more than the Engineer's estimate based on the fact that the estimate was prepared by the landscaping architect rather than by an expert in heavy grading and slope repair.

Mr. Requa then gave an overview of the proposed fencing and landscaping work to be done, mentioning that the road along the south side of the property will be widened to allow service access for PG&E. In addition, he stated that the southeast corner of the property is essentially sliding downhill into the canal and starting to stress the utilities in that area. To remedy this, and prevent the new fencing and landscaping from sliding as well, the project was expanded to include slope grading and construction of a retaining wall. This explains the difference in the original

project cost, but is the least expensive solution. This is important work for the WWTP in providing improved access for Operations staff and limiting damage to underground utilities due to the backslide.

Mr. Requa commented, in reference to Consent Calendar Item 8.A WWTP Fencing and Security - Phase I (CIP 12-P004): Approve License Agreement with Zone 7, that Zone 7 has been very cooperative and has allowed District staff access to their property to tend to the weed overgrowth and tie that area into the proposed landscaping.

Speaker: Ms. Debra Wall, Val Vista Resident and Pleasanton Park and Recreation Commissioner - Ms. Wall stated that she was excited to have the opportunity to state her support to the Board for the awarding of the fencing and landscaping project at the WWTP while serving in her new dual role.

Director Halket inquired if this project would bring this issue to a close, noting the District's costly investment over the course of several years. He stated that the Wastewater Treatment Plant is an industrial facility that predates the surrounding park and neighborhood by many years and feels that the District has been more than accommodating in addressing this issue.

Mr. Requa responded that this is the end of this project for now (as approved in the current CIP budget) but acknowledged that there may be requests to make improvements for other areas of the facility in the future.

Director Duarte inquired as to why the project estimate was not upgraded when the slope control was added into the project scope.

Mr. Requa responded that the extent of the slope repair was unknown, and, therefore, underestimated until the soil evaluation and report was completed. It was then determined that the initially planned slope work would be insufficient for the long-term.

Director Howard asked if the initial estimate for this project was basically for fencing and landscaping.

Mr. Requa confirmed this was correct and added that some funding was initially included for slope and roadway repair but the slope repair is more extensive than originally anticipated.

V.P. Vonheeder-Leopold added that she was pleased that the District will finally live up to the commitment made to residents regarding landscaping and odor improvements, noting that this effort began in 1997.

Director Halket commented that he was also pleased to see this coming to completion and noted that there are and have been several differing Boardmember perspectives regarding this situation.

Director Howard MOVED to adopt Resolution No. 46-13, approving and authorizing execution of agreement to McGuire and Hester for Construction of WWTP Fencing and Security – Phase I (CIP 12-P004) and Directing Return of Security Deposits. V.P. Vonheeder-Leopold SECONDED the MOTION, which CARRIED with FIVE AYES.

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

General Manager Michalczyk provided the Board with the background and timeline of events that led to the discussion before the Board tonight. The Operating Budget was approved on June 4, which included the authorization to hire four positions, including a Safety Officer to fill that vacant position. He stated that in August, Director Duarte requested that the Safety Officer position be reconsidered and, in accordance with the Board's Guidelines for Conducting District Business policy, that reconsideration request was placed on the October 1 Board meeting agenda. The Board affirmatively voted to reconsider the matter and then directed it to the Personnel Committee for further evaluation. Mr. Michalczyk reported that the Personnel Committee's recommendation to the Board tonight is to reaffirm the prior Board decision to approve and fund the position. He then deferred to President Benson and Director Howard, the Personnel Committee members, to discuss the Committee's reasoning for such recommendation.

President Benson stated that she has reviewed several safety related job descriptions from East Bay Municipal Utility District including Manager of Workplace Health and Safety, Manager of Regulatory Compliance, and Manager of Security and Emergency Preparedness. In doing so, she came to the conclusion that the District's Safety Officer position title was perhaps incorrect in accurately reflecting the full scope of the components of this multi-purpose position. The District's job description reflects a manager level position that spans several different facets of the District's relationships with regulatory agencies, such as OSHA and Cal/OSHA, and oversees regulatory compliance, security, and emergency preparedness, in addition to running the District's safety programs.

Director Howard stated his agreement with President Benson and noted that during the budget consideration process there were a certain number of positions approved. He views those positions as a type of capital for staff to use as they manage the District. He noted that staff at all levels of the District overwhelmingly expressed that a Safety Officer position was at the top of the list of priorities. He finds it difficult to argue with how staff best determines to use the resources the Board provides.

President Benson added that the last time the position title was updated was 1991, noting that things have changed over the course of time. Employing a Safety Officer is a safety precaution, and the District has sat idle without hiring an employee to fill that job. She stated that she believes the position should have already been filled.

Director Duarte observed that the Safety Officer position appears to be a "done deal" based on reading the Personnel Committee's report. He understands that the matter was given its due process, but stated that he does not agree with the recommendation

or the compensation package that accompanies the position. He commented that staff wanting something does not necessarily make the decision right. He stated that the budget approval process still bothers him, as the budget was presented as a full package containing this specific position. He added that operating a wastewater treatment plant is not that dissimilar to operating a heavy civil construction engineering company, and stated that employing a full-time Safety Officer is out of alignment with the private sector. He will abide with the Personnel Committee's recommendation, but still disagrees with the compensation set and questions whether the job warrants a full-time position.

President Benson thanked Director Duarte for initiating the process to take another look at this matter and stated that it is important for District Duarte's voice to be heard.

Director Duarte stated that he would never accuse the Board of putting a "rubber stamp" on the matter and that he did not run for the Board to become a "rubber stamp," but expressed that he felt he was put in the position to have to vote for the Operating Budget which contained this position, leaving him with no choice in the matter.

V.P. Vonheeder-Leopold stated that she agreed with the comment Director Halket made at the October 1, 2013 Board meeting cautioning Boardmembers about re-opening decided Board policy. She believes it is a bad precedent to set for the Board; however, she recognized that Director Duarte is the newest Boardmember, and in this instance she thought it necessary.

V.P. Vonheeder-Leopold also commented that if the District is evolving into a maintenance organization it might be wise to consider contracting some positions in the future. She thanked Director Duarte for the work he put into this effort and stated that she will look at things differently in the future as a result.

Director Halket welcomed Director Duarte to the process of governance and thanked him for the useful exercise. He advised that it is useful to take the long view as it can take time before changes can be realized.

Director Halket MOVED to adopt Resolution No. 47-13, reaffirming its prior approval and funding for the District Safety Officer Position. Director Howard SECONDED the MOTION, which CARRIED with FOUR AYES and ONE NO (Duarte).

10. BOARDMEMBER ITEMS

Director Howard reported that on his recent travels from Tahoe, he has seen beautiful California fall foliage and scenery along State Route 88, which is also known as the Carson Pass Highway. He mentioned that the lakes seen from along this route are fairly full at this time of year.

V.P. Vonheeder-Leopold reported that she read the ACWA newsletter and a commemorative Gold Edition of the California's Water series done by Huell Howser will be available for

purchase. The full series of 25 segments are available for \$30. She would like the District to purchase these for the local school districts and the library to further ecological and environmental education.

General Manager Michalczyk stated that he would look into this as he believes the Public Information staff may have already purchased and distributed these to the local school district and libraries.

President Benson welcomed and congratulated Interim Financial Services Manager Archer.

President Benson acknowledged Mr. Requa and his upcoming retirement and thanked him for his years of invaluable contributions, insight, and honesty. She acknowledged that he has been bringing people together for the good of the agency, state, and nation as an industry expert. He always contributes a synergy that is appreciated and the District will miss him.

13. ADJOURNMENT

President Benson adjourned the meeting at 6:43 p.m.

Submitted by,

Nicole Genzale
Administrative Analyst I

For: Nancy G. Hatfield
District Secretary