

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

REGULAR MEETING
March 19, 2008

Vice-President Palmer called the regular meeting to order at 7 p.m., with a salute to the flag. The following were present:

DIRECTORS: JOHN GRECI
JAMES CONCANNON
STEPHEN KALTHOFF
JAMES KOHNEN
SARAH PALMER
RICHARD QUIGLEY
BILL STEVENS

DIRECTORS ABSENT: NONE

ZONE 7 STAFF: JILL DUERIG, GENERAL MANAGER
AMY NAAMANI, GENERAL COUNSEL
KURT ARENDS, ASSISTANT GENERAL MANAGER, ENGINEERING
VINCE WONG, ASSISTANT GENERAL MANAGER, OPERATIONS
JOHN YUE, ASSISTANT GENERAL MANAGER, FINANCE & BUSINESS SERVICES
KARLA NEMETH, ENVIRONMENTAL & PUBLIC AFFAIRS MANAGER
JOE SETO, PRINCIPAL ENGINEER
CAROL MAHONEY, ASSOCIATE ENGINEER
BARBARA MORSE, BOARD SECRETARY

Item 3—Citizens Forum

Noting that eight candidates had filed papers for the upcoming Zone 7 election, Director Kohnen asked if any of the candidates were present. If so, he requested that they step to the podium and introduce themselves.

Zone 7 Board candidates present were: Mr. Dale Myers, Mr. Chris Moore and Mr. Steve Mattos.

Item 4—Minutes of Regular Meeting of February 20, 2008

On a motion by Director Kalthoff with second by Director Concannon, the Board approved the minutes of the regular meeting of February 20, 2008.

Item 5—Consent Calendar

Items pulled from consent: Item 5b by Director Kohnen and Item 5c by Director Palmer.

Director Greci moved for the approval of consent Item 5a. The motion was seconded by Director Kalthoff, and the following resolution was approved by a vote of 7-0.

Resolution No. 08-3141 Approving Agreement for the Supply and Conveyance of Water by the Department of Water Resources to the Participating State Water Project Contractors under the Dry Year Water Purchase Program – Yuba Accord. (Item 5a)

Item 5b—Award of Contract for the Patterson Pass Water Treatment Plant UF Plant Modifications—Project No. 175-07

Director Kohnen asked for more information regarding what benefits we will be receiving from this project. He noted that the engineers estimate for this project was \$222,500, and the low bid was \$258,000.

Mr. Arends stated that even though the low bid is below the engineers estimate, staff feels that this is a good bid. The main purpose of the project is to improve operational efficiency and reliability through:

1. Improved neutralization of wash water from the membrane cleaning process—this is currently done manually but the automated process should produce a better blend.
2. Provides a proper discharge of overflow from the clean-in-place storage sump-- currently the sump can back up and flow into the creek which creates regulatory issues and environmental concerns.
3. Provides a pre-chlorination system.

In response to Director Palmer’s question about long term effects of spilled caustic, Mr. Arends stated that quantities have been very small but it could become a problem in the future.

Ms. Duerig added that the regulatory agencies would like to see this problem fixed.

There were no further questions.

Director Greci moved for the adoption of Resolution No. 08-3142 awarding the contract for the Patterson Pass Water Treatment Plant UF Plant Modifications, Project No. 175-07, to Pacific Infrastructure Corporation for the amount of \$258,000. The motion was seconded by Director Concannon and passed by a vote of 7-0.

Item 5c—Personnel Action: Approval of Salary Schedule for Administrative Interns

This item creates a salary schedule for the three budgeted positions of Administrative Intern. This will provide college students with summer or part-time academic year work that will supplement their educational program and give them actual work experience, while also providing a valuable service to the Agency. Examples of areas in which the work assignment may occur are: administration, communications, environmental science, finance, human resources, legislative advocacy, purchasing, or related fields.

In response to a question from Director Palmer regarding whether this position would receive any benefits, Mr. Yue responded that it would not.

There were no further questions.

Director Greci moved for the adoption of Resolution No. 08-3143 approving the salary schedule for the Administrative Student Intern position. The motion was seconded by Director Quigley and passed by a vote of 7-0.

Item 6—Staffing Updates: Congratulations Retirees

Mr. Yue announced the retirements of the following employees:

- Clayton Borchers, Water Resources Technician II, Flood Control Engineering, after 15 years.
- Y. K. Chan, Principal Engineer, Capital Projects, after 14 years.

Item 7—Development Impact Fee Report/Ordinance

The Board heard Ms. Carol Mahoney, Project Manager for the StreamWise Program, give a presentation on the history of the Fee Program; why the change is needed; features of the new ordinance; and outreach activities.

History

- The existing Special Drainage Area 7-1 (SDA 7-1) Ordinance was based on equivalent dwelling units and was developed in the 1960's to support the Flood Control Master Plan.
- An update of the 1960 Master Plan began in the 1990's.
- Fee basis updated to “square foot of impervious surface” and annual adjustments begin in 2001.
- Stream Management Master Plan (SMMP) adopted by Board and SMMP Implementation Plan (StreamWISE) initiated (2006).
- Development Impact Fee (DIF) Study began and new Ordinance under development based on funding needs of SMMP (2007 to present).

Why Change?

- The existing SDA Program was based on the 1960 Flood Control Master Plan and cannot support the StreamWISE projects which better address present day impacts and the move to a regional storage approach to alleviate downstream flooding.
- A new ordinance is needed to generate funding based on the SMMP projects, general plan updates, changes in runoff patterns to local creeks and changes in regulatory requirements.

Development Impact Fees:

- Impact fees are capital recovery fees that are generally established as one-time charges, assessed against new development as a way to recover a part or all of the cost of additional system capacity constructed for their use—in other words, “growth paying for growth.”

- The most important criteria is the establishment of a rational nexus between the amount of the fee and the cost burden to the system.
- The Zone 7 fee is based on a rational nexus; square footage of impervious area; basic formula.
 - General Plan growth for Alameda County, and the Cities of Livermore, Pleasanton and Dublin.
 - Stream Management Master Plan.
 - Replacement value of existing assets.
- Components of Zone 7 Development Impact Fee
 - Existing flood protection and storm water drainage facilities
 - Future flood protection and storm water drainage facilities.
 - General assets.
 - **Based on formula, new total proposed fee per square foot of impervious area: \$1.303.**

Purpose of the New Ordinance

- Mechanism through which the development impact fees are established and collected.
- Tracks with the SMMP and the nexus study performed by HDR—both are the foundation of the new Ordinances.
- Replaces SDA 7-1 Ordinance.
- Provides process to evaluate deferrals, waivers and reductions.

Key Provisions of New Ordinance

- Applicability of fee.
- Time and manner of fee collection.
- Accounting and fee review process.
- Reimbursement and credits.
- Deferrals, waivers and reductions.
- Appeal process.
- Annual adjustment of fees.

Deferrals, Waivers & Reductions

- A developer can seek to have the fee deferred, waived or reduced by the General Manager.
- Deferral, waiver or reduction may be granted by the General Manager if the developer shows that:
 - Its project will not contribute storm water to the existing or new Zone 7 flood protection and storm drainage facilities; or
 - Its project will not otherwise benefit from Zone 7's flood control and storm drainage facilities, or
 - If there is no nexus between the type and/or amount of fee and the development project.

Outreach—meetings held with stakeholders; draft copies of nexus study and proposed new ordinance provided for review

- Home Builders Association
- General Public
- Board of Directors

Tonight's presentation is informational and for discussion. This item will be on the Board's April 16 agenda for a public hearing and for Board adoption.

Board questions/comments:

Exemptions—Director Kohnen requested specific examples of commercial exemptions.

Ms. Naamani responded that the intent was to allow for flexibility because we could not come up with each individual situation that may arise. It is more efficient to set criteria to allow responsiveness to each case. For example, on-site detention basins: A property owner claiming an exemption/reduction would have to provide technical information in order to demonstrate that they would be eligible for a reduction in the fee because their drainage will not enter the Zone 7 drainage system and there would be no net increase in drainage because of their project. The new ordinance will provide a process to substantiate a claim of no impact.

Disproportionate costs to cities—Director Kohnen expressed concern that Dublin would bear a disproportionate burden under this ordinance because there is more potential for development than in the cities of Livermore and Pleasanton which are nearly built out. Further, Dublin's flood control channels and drainage facilities are impacted by upstream development in Contra Costa County.

Hydrology report—Responding to a question from Director Quigley, Mr. Seto stated that there are not significant differences between the 1997 hydrology report and the 2007 report.

Stoneridge extension—Director Quigley asked if there would be any impact to the proposed Stoneridge extension between Livermore and Pleasanton.

Ms. Duerig responded no, that the developer would determine the amount of impervious surface in square feet and the new fee of \$1.30/per square foot would be applied—unless one of the defined waiver reductions apply.

Exemptions for agricultural buildings—In response to question from Director Palmer, Ms. Duerig stated that some of the more obscure agricultural exemptions listed are holdovers from the original ordinance. We will look into those and see if they are still applicable.

Response from cities—In response to a question from President Stevens, Ms. Duerig stated that the cities have had a chance to review and comment on the proposed ordinance. The City of Pleasanton requested that the time of fee collection be coordinated to mesh with their internal processes.

Audience member Randy Werner, City of Livermore, stated that the City's Water Resources Department has not seen the new ordinance. He added that he thought Director Kohnen had a good

point in that the cities are impacted from runoff from other areas (incorporated and unincorporated) that simply passes through the cities' facilities.

Ms. Duerig noted that City of Livermore planning, engineering and legal staff had an opportunity to comment on the proposed ordinance. She continued that pass through water does not only affect the Zone 7 area because water leaves the Valley and travels down Alameda Creek to Fremont. All areas have to deal with pass through water; they, in turn, generate their own runoff to flow downstream to another water agency.

Director Kohnen stated that he wanted to be certain that the individual cities know the full impact, and they have a chance to comment. He added that we can expect a cascade of water coming into our area if the Tassajara Valley is developed.

Ms. Duerig stated that staff would follow up with the cities and Alameda County to make sure they have a chance to review the proposed ordinance.

Chain of Lakes issues—Director Quigley was concerned that the amount of storage available in the chain of lakes is adequate to handle the potential runoff from new development. Additionally, perhaps a management protocol is needed to keep the levels low enough.

In response to a question on silt buildup in the lakes, Ms. Mahoney stated that there is minimal silt buildup in the lakes, and desilting would only be necessary at intervals of approximately 15, 25 or 30 years.

Scope of new ordinance—In response to a question from President Stevens, Ms. Naamani stated that the proposed new ordinance will cover development in all of Zone 7, including the cities (including LLNL) and unincorporated Alameda County. If development creates impervious surface, then the development is responsible to pay its fair share. She acknowledged that sometimes it is a challenge to collect the fee.

There were no further comments.

This item will appear on the April 16 agenda for a public hearing and subsequent adoption of the new ordinance.

Item 8—Committees

- a. Ad hoc Independent District Study Committee of March 5, 2008—minutes available. The committee met to hear an update and offer input on a Request for Proposal that had been developed by staff to send out to prospective consultants for a study to look at Zone 7's relationship with Alameda County.
- b. Administrative Committee of March 6, 2008—minutes available. The committee met to hear an update on the StreamWISE Project and to receive a presentation on the Development Fee Impact Nexus Study and Draft Ordinance.

Item 9—Items for Future Agendas—Directors

1. Director Kohnen pointed out that in order for the General Manager's performance review to be done in May, some planning needs to be done to come up with a process to allow for input from individual directors. He suggested an ad hoc committee be formed to meet before the April meeting to come up with a GM review process.

Director Stevens appointed Directors Kohnen, Greci and Quigley to serve on the ad hoc committee for developing a General Manager performance review process.

There was some discussion about the purpose of the committee.

Ms. Naamani confirmed that the actual GM performance review would be done in closed session at the May meeting. She stated that it is appropriate for the committee to develop criteria or steps to be used. However, comments from individual directors are more appropriate for the formal personnel review process.

There was consensus that the mission of the ad hoc committee would be to develop a system to review the GM's performance with the full board conducting the review in closed session.

2. Director Quigley requested an inventory of storage capacity of the chain of lakes, as well as development of a management plan if that area is to be used as a flood control detention system.

Ms. Duerig responded that is planned for a few years in the future as part of the chain of lakes master planning effort. Zone 7 is not scheduled to take over another lake until 2014 and there are other staff priorities in the interim. However, it would be possible to provide a brief summary table of available storage from planning efforts to date.

Item 10—Reports—Directors

1. Director Kohnen reported that Supervisor Scott Haggerty's mother had passed away. He requested that tonight's meeting be adjourned in her memory and that a letter of condolence be sent to Supervisor Haggerty.
2. Director Palmer thanked the Zone 7 staff that participated in the Science and Engineering Fair on March 5.

Ms. Duerig stated that the winners of Zone 7 awards would be invited to give brief presentations of their project at the April board meeting.

3. Director Quigley reported the Science and Engineering Fair held in Livermore on March 5 was a very worthwhile event. He, along with Director Kohnen, served as judges as did Zone 7 staff members Karen Newton, Assistant Engineer in the Water Quality Section, and Cheryl Dizon, Assistant Engineer in the Groundwater Protection and Projects Section.

He distributed a brochure on the quagga/zebra mussel which is being distributed at Del Valle Regional Park to raise awareness of the invasive species among boaters and other park users.

March 15, he attended a meeting on the Staples Ranch Pleasanton draft proposal. Zone 7 staff was recognized as being supportive to ongoing discussions with Pleasanton city staff.

March 31—Pleasanton section of the Iron Horse Trail will open. Zone 7 has facilities along the trail. All current board members are invited to attend the ceremony.

The March 10 issue of ACWA News contained a story on the importance of the Delta and the BDCP process which contained portions of a letter written by General Manager Jill Duerig to the Governor on the importance of the Delta to Zone 7.

Item 11—Staff Reports (Information items. No action taken.)

- a. General Manager’s Report
- b. Recent & Upcoming Public Outreach Activities
- c. Mocho Groundwater Demineralization Plant Project Status Report
- d. 2007 Powdered Activated Carbon Usage and Porta-PAC Operational Assessment
- e. Renewable and Alternative Energy Update

Director Palmer complimented the Outreach staff for providing a useful summary of upcoming activities.

Item 11f—Verbal Reports

Ms. Duerig advised that Zone 7 had written a letter of support for California Water Service regarding a toxic plume in the vicinity of the Miller’s Outpost Shopping Center on Railroad Avenue in Livermore. The letter, which urged an aggressive cleanup stance, received a good response from the Regional Board which issued a strong letter in support of cleaning up the contamination. She complimented the Zone’s Toxic Site Group for being on top of this problem and assisting the retailers.

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Vice-President Palmer recessed the meeting for a short break before going into Closed Session at 8:15 p.m.

Item 12—Closed Session

- a) Conference with Legal Counsel - Existing litigation pursuant to Subdivision (a) of Government Code Section 54956.9: 1 case

Watershed Enforcers v. California Department of Water Resources et al., Alameda County Superior Court Case No: RG06292124

Alameda County Flood Control & Water Conservation District, Zone 7 et al. v. Department of Water Resources et al., Sacramento County Superior Court Case No: 05AS01775.

- b) Conference with Legal Counsel –Significant exposure to litigation pursuant to Subdivision (b) of Government Code Section 54956.9: 3 cases
- c) Conference with Legal Counsel—Initiation of litigation pursuant to Subdivision (c) of Government Code Section 54956.9: 1 case

- d) Government Code Section 54957.6: Conference with Labor Negotiators:
Agency Representative: Jill Duerig, General Manager
Unrepresented Employee: Principal Engineer

Item 13—Open Session and Report Out of Closed Session

Ms. Naamani reported that in Closed Session the Board unanimously adopted Resolution No. 08-3144 approving amendment to Section 4.10 – Engineering Section, to Appendix A, Footnotes to Salary Schedule of the salary schedules for Unrepresented Managers, effective for the period starting March 23, 2008.

There was nothing further to report out of Closed Session.

Upcoming Board Schedule

There is no need for a special meeting this month.

- a. Regular Board Meeting: April 16, 2008, 7:00 p.m.



ADJOURNED IN MEMORY OF

Geraldine M. Haggerty