

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

REGULAR MEETING  
September 17, 2008

President Palmer called the regular meeting to order at 7:00 p.m., with a salute to the flag. The following were present:

DIRECTORS: SANDY FIGUERS  
JOHN GRECI  
DALE MYERS  
SARAH PALMER  
DICK QUIGLEY  
BILL STEVENS

DIRECTORS ABSENT: STEPHEN KALTHOFF

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  
TOM HUGHES, HUMAN RESOURCES MANAGER  
JOE SETO, PRINCIPAL ENGINEER, FLOOD CONTROL SECTION  
TAMARA BAPTISTA, SR. STAFF ANALYST  
PHYLLIS MAY, BUDGET ANALYST  
JAIME RIOS, ASSOCIATE ENGINEER, WATER SUPPLY ENGINEERING  
BRAD LEDESMA, ASSOCIATE ENGINEER, ENGINEERING  
BARBARA MORSE, BOARD SECRETARY

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**Item 3—Citizens Forum**

Regarding the Development Impact Fee, Mr. Doug Mann, Livermore resident, urged the Board to raise fees on new development to pay for SMMP projects. He believed collection of the increased fee should begin right away with no allowances for grandfathering non-vested projects.

Ms. Duerig noted that the Development Impact Fee is agenda item no. 13b on tonight's agenda.

**Item 4—Minutes of Special Meeting of August 14, 2008 and Regular Meeting of August 20, 2008**

On a motion by Director Quigley with second by Director Myers, the Board approved the minutes of the special meeting of August 14, 2008.

Director Quigley wanted additional wording added to the minutes of August 20, 2008 for clarification. At the top of page 11, second line, where it talks about the South Bay Aqueduct being back to full use after a reduction in pumping caused by a failed transformer—Director Quigley wanted wording added to clarify that “full use” means “full use to the extent allowed by permits and recent court decisions.” The revised sentence would then read:

“Ms. Duerig announced that she had received word from the Department of Water Resources that the South Bay Aqueduct was back to full use to the extent allowed by permits and recent court decisions.”

On a motion by Director Quigley with second by Director Figuers, the Board approved the amended minutes of the regular meeting of August 20, 2008. Director Stevens abstained.

### **Item 5 —Consent Calendar**

Items pulled from the consent calendar for discussion: Items 5c, 5d and 5e.

Director Figuers moved for the approval of the consent calendar, Items 5a, 5b and 5f. The motion was seconded by Director Stevens, and the following resolutions were approved by a vote of 6-0.

- |                        |   |
|------------------------|---|
| Resolution No. 09-3218 | Approving request for out-of-state travel for Governmental Accounting Finance Officers Association, “Accounting for Capital Assets” training in Phoenix, Arizona, November 17, 2008, and reimbursement of actual and necessary expenses for two Zone 7 staff members. (Item 5a) |
| Resolution No. 09-3219 | Approving request for out-of-state travel to attend AWWA Cal-Nevada Annual Fall Conference in Reno, Nevada, October 20-23, 2008, and reimbursement of actual and necessary expenses for one Zone 7 staff member. (Item 5b)  |
| Resolution No. 09-3220 | Authorizing the Board of Supervisors of Alameda County Flood Control & Water Conservation District to approve granting an Easement Deed to PG&E/AT&T, Lake I/Line G, No. 70116, Map: RF 10080. (Item 5f)  |
| Resolution No. 09-3221 | Accepting Quitclaim Deeds from PG&E/AT&T and authorizing the General Manager to record same, Lake I, No. 70117, Map: RF 10080. (Item 5f)  |

### **Item 5c—Request by Director Dale Myers for Authorization to Attend Upcoming Southern California Meetings**

Ms. Duerig explained that this is a request by Director Myers to attend the upcoming Water Forum meeting in Los Angeles on September 25, and to begin participating in the Southern California Water Dialogue meetings. The latter are held monthly in Southern California, at the offices of the Metropolitan Water District (MWD). The Water Forum is a collaborative planning effort by MWD and its member agencies to update its long-term Integrated Resource Plan by 2009 in order to address the unprecedented challenges to statewide water supplies. Given that the same challenges are facing Zone 7, it is believed that there would be a benefit to observing the process and concerns raised by MWD’s retailers and other stakeholders at this meeting.

After some discussion, the Board decided to also approve Director Myers’ attendance at the Southern California Water Dialogue meetings held in Southern California through the end of 2008. At that time, if the meetings are proving worthwhile, the Board will revisit this item and consider approving continued attendance.

It was noted that current board policy is to allow directors to attend one ACWA conference per year without seeking approval from the Board for reimbursement of travel and registration expenses. If directors wish to attend additional conferences/seminars/training for which reimbursement for costs associated therewith are requested, prior Board authorization must be obtained. Furthermore, directors are required to provide a brief report at the next board meeting (less than three minute verbal report or provide written notes) after any such attendance per AB1234 and Zone 7's compensation and expense reimbursement policy.

Director Myers stated that he had been invited to attend Water Forum meetings because Zone 7 faces similar challenges as MWD in that 80 percent of our water supply is conveyed through the Delta. As for the Southern California Water Dialogue meetings, his intent was to attend if the topic is applicable to Zone 7 and then bring the information back to share.

Director Stevens stated he felt Director Myers was especially suited to attend these meetings because of his experience and expertise in Delta issues.

Director Figuers moved for the adoption of Resolution No. 09-3222 as amended approving Director Myers' participation in both the September 25 Water Forum and the monthly Southern California Water Dialogue meetings through the end of 2008 and approving actual and necessary expenses associated with that participation. The motion was seconded by Director Stevens and passed by a vote of 6-0.

**Item 5d—Request by Director Dale Myers for Authorization to Participate in the Bay-Delta Conservation Planning Effort on Behalf of Zone 7**

Ms. Duerig stated that Director Myers has indicated he is interested in becoming re-engaged in the Bay Delta Conservation Plan (BDCP), as he was when he was consulting for Zone 7. This would assist staff in covering work which has been done by Ms. Karla Nemeth who will be on full time loan to the California Resources Agency (see item 5e). It is envisioned that Director Myers will be part of a team along with Mr. Kurt Arends and Mr. Brad Ledesma who will be alternating their attendance at meetings previously covered by Ms. Nemeth. Close communication and collaboration with staff will be necessary.

It was noted that if the Board asks Director Myers to take on this time commitment, the District Act allows for payment for attending up to four meetings a month.

Board Members expressed concern that a distinction be maintained between the responsibilities of a board member and those of a member of staff, and further that all communications go through the General Manager.

Director Myers stated he had been asked by the Bay Delta Conservation Plan's Coordinator, Karen Scarborough, Undersecretary of the California Resources Agency, to become re-engaged in the Bay Delta Conservation Plan (BDCP) when Ms. Nemeth begins working for the state. He believed the role of Zone 7 has been critical to the progress being made on the BDCP. Further, for a year prior to Ms. Nemeth taking it over, he had represented Zone 7 on the BDCP Steering Committee.

President Palmer stated she supports this item as long as it is clear that Director Myers will be assisting staff.

Ms. Duerig stated that she was comfortable with the way the resolution is worded.

Director Figuers moved for adoption of Resolution 09-3223 approving Director Myers' attendance at the BDCP meetings, as a Zone 7 representative in collaboration with and under the direction of staff, and that Director Myers be reimbursed for actual and necessary expenses associated with his attendance at these meetings and receive meeting compensation for such attendance consistent with the Zone 7 Board of Directors Compensation and Expense Reimbursement Policy.

The motion was seconded by Director Stevens and passed by a vote of 6-0.

**Item 5e—Inter-jurisdictional Personnel Exchange Agreement between the State of California and Zone 7 Water Agency**

Ms. Duerig advised that the State of California Resources Agency has indicated an interest in entering into a contract (Inter-jurisdictional Personnel Exchange Agreement) with Zone 7 for the assignment of Ms. Karla Nemeth to the Resources Agency to work on the BDCP. Under such an agreement, Ms. Nemeth would work full-time for the Resources Agency in Sacramento, and the Resources Agency would reimburse Zone 7 the cost of Ms. Nemeth's salary, benefits, and retirement contribution. For the duration of the contract, Ms. Nemeth would, in effect, be on temporary full-time loan to the State of California.

In response to questions which have been raised by President Palmer, Ms. Duerig distributed a chart showing advantages and concerns related to this proposed arrangement.

Pros:

- Maintains good working relationship with state, in general, and Resources Agency, in particular.
- Facilitates ongoing contact with BDCP through transferred employee.
- May keep option open for employee to return to Zone 7 at end of BDCP effort if position funding maintained; if employee returns, she would have gained enormous experience and contacts while working at state.

Concerns:

- Worker's Comp coverage not yet clearly defined.
- Other liability and risk management coverage needs to be clarified.
- Retirement plans different; feasibility of proposed service credit needs to be resolved so there is no negative impact to the employee.
- Vacation and leaves disparate and need to be conformed.
- Potential for conflict of interest if employee's duties for state put in conflict with employer (Zone 7). (We do not anticipate this happening but it needs to be addressed.)
- Alameda County has alternative process that would administratively permit up to one year transfer, under "leave of absence" guidelines. (This is not necessarily the first choice as a way to handle this.)

Ms. Duerig continued that staff has not been able to find any examples of this type of arrangement so we have spent a lot of staff time giving this a thorough review so that both the employee and the agency are protected. A draft contract has been reviewed by staff and will be forwarded to an outside human resources counsel for review.

President Palmer agreed saying that the arrangement should be cost neutral to Zone 7 and address any liability issues that may exist. It should also be contingent upon approval by ACERA and Risk Management. We want to make sure that protections exist for the employee and the agency.

In response to a question regarding the length of the contract, Ms. Duerig stated that there is no set time frame but it is likely to be one to two and a half years.

There was a brief discussion on whether to amend the resolution to give the General Manager authority to negotiate contract provisions to address the liability issue and also to make approval of the contract contingent upon approval by County Risk Management and the ACERA.

Director Stevens stated that he thought the resolution was fine as is. We've never had a problem before. He didn't know why this is such a big deal. He didn't believe any special stipulation was needed.

Ms. Naamani responded that this contract is very short on details. A Zone 7 employee will be working under the direction of a state agency and there are potential liability issues that we need to look at.

Ms. Duerig added that staff intends to clarify the details of the contract before executing.

Noting that he felt the contract is in the best interests of Zone 7 and of Ms. Nemeth, Director Greci moved for the adoption of Resolution No. 09-3224 approving an Agreement with the Resources Agency/CALFED Bay-Delta Program for the purposes of assigning Ms. Karla Nemeth to work with the Resources Agency/CALFED Bay-Delta Program in support of the Bay Delta Conservation Plan and reimbursement of Zone 7 for all personnel costs associated with the assignment.

Director Figuers asked if the Board of Supervisors could veto the contract.

Ms. Naamani responded, no. With the passage of AB 1125 in 2002, the Zone 7 Board of Directors has final authority in all matters dealing with Zone 7. However, this situation is a little different because it involves Risk Management and ACERA.

In response to a question from President Palmer, Ms. Naamani stated that all of her concerns have been articulated, and she was comfortable with the resolution as it stands.

Director Myers commented he did not think we should go overboard with the details. He believed the risk was worth what is to be gained. He urged that the contract be approved so that the work at hand can move forward.

Director Figuers seconded Director Greci's motion to adopt Resolution No. 09-3224 to approve the agreement as presented. The motion passed by a vote of 6-0.

### **Item 6—Staffing Update**

Ms. Duerig introduced Mr. Brad Ledesma, Associate Civil Engineer, who is reporting to Mr. Arends. Mr. Ledesma has over 11 years experience in engineering and project management. Mr. Ledesma should be a familiar face to the Board, as he formerly worked for West Yost Associates and appeared before the Board on several occasions.

**Item 7—Award of Contract for the Patterson Pass Water Treatment Plant Improvements Project 2008, Project No. 179-08**

The Board heard a brief presentation from Mr. Jaime Rios, Associate Engineer, on the award of contract for the Patterson Pass Water Treatment Plant Improvements Project 2008, Project No. 179-08.

Project Description

- Project is a compilation of four smaller projects within Zone 7's Capital Improvement Program:
  - 20-inch backwash tank line interconnection to the City of Livermore system;
  - Installation of a 24-inch magnetic flow meter and pre-cast concrete vault on the conventional plant influent line;
  - 30-inch clearwell bypass line, replacement of valve and pumps at the washwater recovery ponds; and
  - Electrical, instrumentation, and SCADA system upgrades required at the above mentioned areas.
- Engineer's Estimate for the combined project was \$625,000.
- The project was advertised following established procedures, and on September 4, 2008, six bids were received, opened, and publicly read.
- The low bidder is Pacific Infrastructure with a bid of \$878,000.
- Schedule: Construction is scheduled to begin the second week in October with substantial completion anticipated by April 2009. This schedule dovetails with the planned shutdown this winter of the South Bay Aqueduct for DWR's expansion and improvement project.
- Funding will be provided from Fund 72 – Renewal and Replacement/System-wide Improvements.

Recommendation:

- Approve plans, specifications, appendices and addenda;
- Accept and award a contract to Pacific Infrastructure as the lowest responsive and responsible bidder for the bid amount of \$878,000;
- Authorize the General Manager to prepare the contract and bond forms for review and approval by the General Counsel;
- Authorize the General Manager to execute the Contract with Pacific Infrastructure;
- Authorize the General Manager to issue change orders as and when required by the contract for an amount not-to-exceed \$87,800 (10% of contract amount); and
- Authorize the General Manager to increase Fiscal Year 08/09 appropriations by \$350,000 in Fund 72 - Renewal & Replacement/System-Wide Improvements and add it to the Fiscal Year 08/09 budget.

Questions:

In response to a question from Director Quigley, Mr. Arends stated that because the low bid is higher than the engineer's estimate, there is also a recommendation to approve an appropriation of \$350,000 in Fund 72-Renewal & Replacement/System-Wide Improvements to be added to the Fiscal Year 08/09 budget.

Director Figuers moved for the adoption of Resolution No. 09-3225 awarding the contract for construction of Patterson Pass Water Treatment Plant Improvements Project 2008, Project No. 179-08, to Pacific Infrastructure for the bid amount of \$878,000. The motion was seconded by Director Stevens and passed by a vote of 6-0.

**Item 8—Agreement with Alameda County Public Works Agency for Flood Control Maintenance and Emergency Activities**

Mr. Arends provided background for this item:

- Alameda County Public Works Agency (ACPWA) has been providing maintenance services for Zone 7's flood control facilities for many years
- Since 2003, annual agreement extensions up to \$400,000 per year were approved.
- Recently, there was a desire to update the agreement provisions and revise the scope of work to reflect actual services needed and applicable regulatory requirements.
- In July 2008, Zone 7 and ACPWA mutually agreed to enter into a \$100,000, 3 month agreement extension ending on September 30, 2008 to allow the parties time to negotiate modifications to the agreement.
- Staff and ACPWA staff have reached an agreement on the new provisions and scope of work of the agreement. The revised scope maintains the contract level at \$400,000 per year.
- Staff recommends that the Board adopt the attached resolution.
- Funding for this project will be provided from Fund 50 – Flood Control.

Mr. Seto, Principal Engineer, Flood Control Section, answered questions regarding this contract.

- Regarding why this work is performed by Alameda County Public Works (ACPWA), Mr. Seto stated that Zone 7 is part of Alameda County Flood Control & Water Conservation District and since the 1960's ACPWA has been providing routine maintenance services for Zone 7's flood control facilities. In 1998, both agencies desired to enter into a formal agreement to secure all labor, material, equipment, transportation and services to be used and employed in the maintenance and emergency work for flood control facilities within the Zone 7 service area. ACPWA has successfully performed maintenance services on Zone 7's flood control facilities under the agreement and the cost of the work is within ten percent of what it would cost to use a private contractor.
- With regard to whether there is any overlap with other contracts for flood control services, Mr. Seto stated that the work performed by ACPWA is routine channel maintenance activities. There is another annual contract with Fanfa Construction for heavy construction needs, such as repair of bank slides, sediment removal, and other major maintenance. Additionally, there are smaller specialized contracts for services such as hydroseeding, landscape maintenance, etc.

Director Stevens moved for the adoption of Resolution No. 09-3226 approving the new updated agreement between Zone 7 and ACPWA for flood control maintenance services in an amount not-to-exceed \$400,000 for the period ending June 30, 2009. Further, the General Manager is authorized to execute this agreement, and to approve subsequent annual extensions up to \$400,000 per year for each fiscal year.

The motion was seconded by Director Quigley and passed by a vote of 6-0.

### **Item 9—Preliminary Treated Water Rate for 2009**

Before the presentation, Mr. Yue wanted to call attention to the addendum of outreach efforts with the Tri-Valley Water Retailer Group (TWRG) which was not part of the agenda packet but was made available to the Board before tonight's meeting. Additionally, the Board should have received a copy of a letter from DSRSD commenting on the water rate.

Mr. Yue thanked Ms. Baptista and Ms. Phyllis May, Budget Analysis, for their hard work in developing the preliminary water rate.

The Board heard a presentation by Ms. Baptista on the Preliminary Treated Water Rate for 2009.

Highlights of the presentation:

#### **Purpose/Background:**

- Treated water rates are set annually to:
  - fund annual operations and long-term capital needs of the Water Enterprise;
  - enable Zone 7 to fulfill its mission within funding limits and regulatory requirements
- Water rates are developed within set guidelines:
  - 3% target for budget increases
  - Designated reserves offset increases in areas over which there is little control, i.e., chemicals, personnel and utilities.
  - Asset Management Plan (AMP), recommended increasing annual contribution to Renewal/Replacement & System-Wide Improvement Funds from \$4 million to \$10 million. This was to be accomplished in phases.

#### **Recent Issues**

- Increased water costs from the State.
- Bay Delta issues/increased operating costs.
- Slow housing market translates to less revenue from connection fees and lower water sales.
- Volatile oil prices: higher chemical costs to Zone 7.
- New program: Mocho demineralization—O&M will be funded from the enterprise fund.

#### **Budget/Water Rate Cycle**

- Water rates are set on the calendar year and overlap the budgets of two fiscal years.
- Rates are based on actual data on revenue/expenditures from half of one fiscal year and projected data from half of the following fiscal year.

## Water Sales

- Account for the bulk of the revenue.
- Retailers submit 5-year delivery schedules which Zone 7 uses to forecast sales.

## Water Rate Components

- Operating Expenses (shown in pie charts)
  - \$37.5 M for FY 09-10 (represents a 22% increase over FY 08/09 )
  - Significant increases shown in some areas:
    - Bay Delta \$2.0 M 488% increase
    - Mocho Demin \$1.1 M 337% increase
      - Project plays a key role in Water Quality/Salt Management Plan.
      - Can produce up to 6.1 MGD of treated water.
      - Completion should be in spring 2009.
      - 1-year warranty period.
    - Utilities \$.08 M 88% increase
    - Chemicals \$.09 M 38% increase
    - Increases also in areas of personnel; water; maintenance-structures/equipment; and other areas.

## Preliminary Analysis

Following are three versions of the water rate model using different assumptions. There is a 1 percent change from what was presented at the Finance Committee meeting because it was determined that DSRSD's delivery schedule was already adjusted for conservation.

### Assumption 1—Pay as you go within 2009

Water sales:	Assuming 6% conservation
Use of Rate Stabilization:	\$0.0
Fund 72 Transfer	\$4.6 M
Water Rate Increase	29.2%
Delta charge increase	0.4%
Total rate increase	29.6%

### Assumption 2—Use reserves (Rate Stabilization) to lower 2009's water rate increase

Water sales:	Assuming 6% conservation
Use of Rate Stabilization:	\$3.0 M
Fund 72 transfer:	\$4.7 M
Water Rate Increase:	14.1%
Delta charge increase	7%
Total rate increase	21.1%

**Assumption 3—Use reserves (Rate Stabilization) and reduce Fund 72 transfer to further lower 2009’s water rate increase, reducing 2007 transfer to \$2.5 M.**

Water sales:	Assuming 6% conservation
Use of Rate Stabilization:	\$3.4 M
Fund 72 Transfer	\$4.5 M
Water Rate increase	9.0%
Delta charge increase:	7.0%
Total rate increase:	16%

**Recommendations for the CY 2009 treated water rate:**

- \$804 per acre-foot based on Assumption 3, i.e., 9% water rate increase plus a 7% increase to Delta charge
- Increased cost to customer is \$4.79/month if entire increase passed on by the retailers.
- Receive input from the Zone 7 Board at tonight’s meeting.
- Continue to October 15, 2008 for action.

**Audience comments:**

Mr. Steve Cusenza, Chair of the Tri-Valley Water Retailers Group (TWRG), stated that the retailers appreciated the presentations and other information that was provided by Zone 7’s financial staff. TWRG fully understands the recommendation and supports Alternative 3.

Ms. Lori Rose, DSRSD, also thanked Zone 7 staff for attending DSRSD board and committee meetings to provide information on the proposed rate increase. The DSRSD board decided not to take a formal position on the proposed Zone 7 water rate increase. However, the Board had some concerns that they wanted the Zone 7 Board to be aware of.

- 1) Groundwater Demineralization Facility: DSRSD supports demineralization of groundwater and recognizes that this facility is necessary to achieve improvements to water quality. However, there is concern that operating the facility during a drought might reduce water supply and increase operating costs. DSRSD understands that the facility must be operated during the warranty period so the recommendation is being made to try to get longer warranty periods on the equipment. Another suggestion is to operate the facility at less than full capacity when water supplies are tight.
- 2) Reserves: Provide better explanation of why reserves cannot be used to mitigate the rate increase. In the presentation to the DSRSD board, we were told that for year ending 2008 revenues were up and expenditures were down. Based on that, it would appear that there are revenues available to mitigate the rate increase.
- 3) Rate setting process: DSRSD continues to have concerns about the tight schedule which is used for the rate setting process and the fact that it does not allow for analysis and discussion of complicated issues. DSRSD would support an amendment to the water supply contract which would delay implementation of the rate increase until the end of January or February to allow more input from the retailers and the public.

Regarding operation of the demineralization project, Ms. Duerig stated that this will be the first year of operation for the equipment which is under a one-year warranty. Traditionally, we would want to run the facility as much as we can to make sure all of the bugs are worked out before the end of the warranty period. She added that the demineralization facility is not just for treated water quality but it is also part of the Salt Management Plan which was required as part of the Regional Recycled Water Master Plan. Although there is brine which is being wasted, it's more than made up for by the amount of recycled water that is used area-wide. That's not to say that if there were a future year of drought, and the water supply were in short supply, we wouldn't want to turn off the demineralization facility. However, this is not the year to do that because of warranty issues.

Board comments:

Director Quigley felt it was time to revisit the Reliability Policy.

Director Myers thanked the financial staff for the extra information they had provided after the presentation to the Finance Committee. The reserve analysis was particularly important because it will be critical to have cash on hand over the next several years in case the drought continues, and we need additional water from the drought bank. He noted that the Committee supported Alternative 3 but wanted Alternatives 1 and 2 to remain in consideration. He pointed out that the three-year (2009 through 2011) total rate increases of the three alternatives were very close: Alt. 3 is 42% over three years, and Alt. 1 and 2 are 47% and 46%, respectively. What it shows is that we're in for a period of very healthy rate increases to support our safe, reliable water supply.

Conservation Plan: Director Myers suggested that if the Board were to select Alt. 1 or 2 this year, we could earmark part of the increase as seed money to fund an aggressive water conservation plan that includes a component for landscape replacement (similar to Phoenix or Las Vegas).

Reliability Policy: Director Myers agreed that it was time to revisit the Reliability Policy and give consideration to the potential need for additional supplies; demand management; water supplies for new development and how that would impact existing customers and developers. He believed that the agency needs to step out of the one-year planning perspective and look at a broader three-year planning horizon.

Director Myers stated that he favored Alt. 2 but wanted both alternatives 2 and 3 to be carried forward. The three-year totals for those alternatives are very close. He continued by saying that \$75,000 to \$100,000 could be set aside from the increase to seed a landscape replacement component of a water conservation program so customers could reduce the impacts of the rate increases. He estimated that the monetary impact to customers between alternatives 2 and 3 was about \$1.50/month.

Ms. Duerig noted that our conservation group did an analysis on a water conservation strategy to help customers save water and cut home water bills. Some of those suggestions include: water lawn as needed, water before 7 a.m., and mulch around plants. Just by doing those three things, we estimate a homeowner could save over \$1 per month. Additional water saving recommendations can be found on the Zone 7 website: [www.zone7water.com](http://www.zone7water.com).

Director Myers stated that he suspected that many of those activities are already going on. However, he predicted that we will probably be living with 20% conservation long term, and he wanted to set up

a more aggressive program to help customers achieve the higher levels of conservation that will likely be needed.

Director Quigley noted that the Alameda County CSDA group met at Zone 7 last week, and the group heard reports from water leaders on the water supply pictures for their agencies. EBMUD was the only agency with mandatory conservation.

Audience comments:

Ms. Beverly Heironimus, Dublin Unified School District, spoke of the impacts of a water rate increase on the District. She noted that all of the school districts in the Valley are already affected by the state budget crisis. A large portion of Dublin Unified's budget goes towards utilities. Water is a significant expense because of all of the playing fields and other landscaping uses. School districts are not able to increase their fees to cover rising costs, and the state is not providing the resources. In fact, the mission of school districts remains the same: to educate our children. She urged the Board to keep the needs of the community in perspective when considering these large rate increases. Such astronomical increases will force even higher budget cuts to already struggling school districts.

Discussion took place about the schedule that Zone 7 uses for development of the water rate and whether it is possible to do anything to give retailers more time for review and input. It was decided that Zone 7 needs to better understand the time requirements of the retailers. Mr. Yue stated that we will work on that to see if we can make improvements to the schedule. Changes to the process will be considered next year after we have more information.

There were no further comments.

President Palmer gave direction to staff that the preferred alternative is no. 3 but that the other alternatives should also remain as options.

Ms. Duerig added that the water rates will remain on the same schedule for this year but we will consider changes next year.

There were no further comments and this item was continued to October 15, 2008 for action.

### **Item 10—Preliminary Untreated Water Rate for 2009**

The Board heard a presentation by Ms. Baptista on the Preliminary Untreated Water Rate for 2009.

- The Untreated Water Rate is based on the cost of State Water Project water (transportation and facilities charges), Byron-Bethany Irrigation District (BBID) water and an administrative fee based on actual staff costs.
- A rate increase of 58% or \$73/acre-foot is being proposed for the upcoming year, resulting in an Untreated Water Rate of \$198 per acre-foot (AF) for 2009.
- The increase is primarily due to Bay Delta related impacts (\$55 per AF), plus higher per unit estimates from Department of Water Resources (DWR) for the cost of transporting water, increased volume of water from BBID, and actual staff time spent on the untreated water program.

There were no public comments on this item.

In response to a question from Director Myers, Mr. Yue stated that no comments had been received from untreated contractors on information that had been e-mailed out on Friday.

There were no further comments and this item was continued to October 15, 2008 for action.

### **Item 11—Draft FY 2009/10 Capital Improvement Program Document: 10-year Water System Plan**

The Board heard a presentation by Ms. Green on the Draft FY 2009/10 Capital Improvement Program (CIP) Document: 10-year Water System Plan.

- The Draft FY 2009/10 Capital Improvement Program document is a communications, decision making and financial planning tool to prioritize projects to be implemented for the water system, beginning with FY 2009/10.
- The CIP document typically includes a Five-Year Flood Protection System CIP. A Ten-Year Flood Protection CIP based on the Stream Management Master Plan (SMMP) is currently being developed; therefore, staff recommended removing the Five-Year Flood Protection System CIP from this year's document. The Zone 7 Finance Committee concurred with this recommendation at their August 28, 2008 meeting. Staff expects to present an expanded ten-year Flood Protection System CIP in a separate document at a later time. This will allow additional time necessary to define and develop a funding plan to support the SMMP-based Ten-Year Flood Protection CIP.
- This year's CIP document includes: a description of the process used to develop the CIP document; a summary of the capital programs for the water system, highlighting of key projects, expected costs over the next ten years, a comparison with the previous FY 08/09 10-Year CIP document; and, cash flow analysis of the capital funds, including revenue projections and planned expenditures.
- The Draft CIP Executive Summary was presented to the Zone 7 Finance Committee on August 28, 2008 and the entire document was distributed to the Zone 7 Board of Directors and the Retailers on September 9, 2008.

### **Highlights of 10-Year Water System Plan**

Key Policies:

- Reliability Policy (Resolution No. 04-2662)
- Groundwater Management Plan (Resolution No. 06-2796)
- Water Quality for Potable and Non-Potable Water (Resolution No. 03-2429)
- Policy Principles and Joint Resolution for Zone 7 Water Quality Program

CIP Summary

- 71 projects totaling \$587 million
- 9 programs including water supply and conveyance, wells, groundwater basin management, water treatment facilities, etc.

## Water System Overview

Driven by capital projects/programs needed to:

- Renew/replace existing infrastructure: \$35M estimated over the ten-year CIP (Fund 72)
- Improve or upgrade existing infrastructure: \$40M estimated over the ten-year CIP (Fund 72)
- Expand or acquire new infrastructure to meet demands of growth: \$509M estimated over the ten-year CIP (Fund 73)
- Source of funding:
  - Fund 72 – Renewal/Replacement, System-Wide Improvements (Water rate revenue – existing users)
  - Fund 73 – Expansion (Connection fee revenue – new development)
  - Annually a transfer is made from Fund 52 to Fund 72 (Asset Management Plan allowance transfer) to fund the Renewal/Replacement and System-Wide Improvements Program.

## Changes

- Slowdown in growth has lead to shortfalls in connection fee revenue.
- Projects have been re-prioritized and or deferred in Funds 72 and 73.
- Fund 72: 5 projects recommended for deferral by a task force from the Operations and Engineering Sections.

## Funding Analyses for Funds 72 and Fund 73:

### Fund 72 – Renewal/Replacement System-Wide Improvements

- Asset Management Plan recommends ramping up to a \$10 million/year funding allowance.
- Current funding target is \$4.6M annually.
  - FY 05/06 - \$2.5M
  - FY 06/07 - \$5.5M
  - FY 07/08 - \$2.5M (proposed)
  - \$3.5M average
- Project has been added to CIP to re-evaluate the Asset Management Program funding needs and condition of assets in FY 2009/10.

### Fund 73 – Changes

- One new project identified: Delta Conveyance Study (25% Fund 73 and 75% water rates)
- Slowdown in connection fee revenue has lead to the re-prioritization and deferral of five projects:
  - AWTP Phase 1
  - AWTP Phase 1A
  - AWTP Phase 2
  - Altamont Pipeline, County Reach
  - Second Groundwater Demineralization Facility
- Max day demands of retailers have not increased so deferral of the Altamont projects will not have a negative impact on retailer demands.

## Funding Analysis (Fund 73- connection fees)

- Capital projects needed to meet growth demands.
- Revenue comes from connection fees.
- A strategy to bridge short-term funding gap has been implemented:
  - 45% connection fee increase eff. Jan. 2007; inflation adjustment in 2008; proposed inflation adjustment in 2009.
  - \$60 M installment sales agreement (ISA) which functions like a structured line of credit and is designated for specific expansion projects, e.g., AWTP.
  - We don't plan to use the entire ISA so there is some flexibility.

## Ongoing CIP Management includes:

- Monitoring of project costs, schedules, priorities and revenue and recommendations for deferral of projects.
- CIP Prioritization Group meets on a quarterly basis to review planned expenditures and actual revenue.
- Conservative outlook in projecting revenue.
- Regular board updates on funding issues.

## Key Issues

- Slow down in growth, demands and connection fee revenue.
- Endangered Species Act and impact on reliability of supply conveyed through Delta and call for conservation.
- Increasing costs of supplies, energy, construction materials.
- Reaching appropriate funding levels for the AMP, while infrastructure is aging.

Recommended action: Receive comments from the Board and bring back for approval on October 15, 2008.

Directors were generally in favor of prioritizing and possibly deferring projects as ways to save costs. However, concern was expressed that by doing that we don't run into problems with the regulatory agencies.

Ms. Duerig responded that we don't anticipate any problems because of the delays.

Director Stevens stated he would like to revisit the annual contribution to the Renewal & Replacement Account. It is not doing us much good if we are never able to contribute the full recommended amount. He suggested making the contribution a realistic number and sticking to it.

Ms. Duerig responded that we would also need to involve the retailers in those discussions.

There were no public comments.

There were no further comments and this item was continued to October 15, 2008 for action.

## **Item 12—Proposed 2009 Development Impact Fee – Municipal & Industrial (M&I) Water Connection Fee**

The Board heard a brief report from Ms. Green on the proposed 2009 Development Impact Fee-Municipal & Industrial Water Connection Fee.

- Zone 7 established the M&I Connection Fee Program in 1972 to assess water connection fees to new development in order to fund water system expansion projects required to serve additional water demands from new development.
- The Board resolved with the adoption of the 2002 Connection Fee (Resolution No. 02-2450), that the basic fee be updated annually, at a minimum, based on the Engineering News Record Construction Cost Index (ENRCCI), or as warranted to keep current with inflation, and that the Connection Fee Program be re-evaluated every three years or sooner as needed.
- Recommendation: adjust the current Water Connection Fee by the change in the ENRCCI from September 2007 to September 2008. Based on the August 2007 to August 2008 increase of 4.4%, it is anticipated that the change from September 2007 to September 2008 will be similar.

Ms. Duerig stated that we are continuing to reevaluate this proposed increase and may decide not to move forward with this recommendation.

There were no comments and this item was continued to October 15, 2008 for action.

## **Item 13—Stream Management Master Plan**

### **a. StreamWISE Project Status Report**

- Objectives of the StreamWISE project
  - Prioritize essential SMMP projects
  - Develop a potential 10-Year CIP
  - Identify a funding strategy for implementing the SMMP
- Reports documenting completion of Task 3, Project Development and Prioritization, and Task 4, Recommended StreamWISE 10-Year Capital Improvement Program are being reviewed by staff.
- The recommended 10-Year CIP will be presented at a subsequent Board meeting. Policy issues for future board discussion:
  - Funding
  - Undersized facilities not owned by Zone 7
  - Community benefits
  - Canal or channel ownership
- The Administrative Committee met on January 8, 2008, to discuss some of these policy issues. The following summarizes the discussion of the policy issues discussed:

- The Administrative Committee concurred that the entity that owned the “undersized” facility should pay for its replacement (e.g., bridges and culverts).
  - The Administrative Committee was not in favor of providing funding for community benefit projects (e.g., trails), but would be willing to help secure grant funding; it was pointed out that the amount of the grant does not generally offset the total project cost.
  - The Administrative Committee discussed the liability of using property tax revenue to improve private property, and felt Zone 7 should work towards ownership of areas that are not currently owned.
- The Administrative Committee met again on September 15, 2008. Items to be brought to the full board at tonight’s meeting:
    - Channel ownership
    - Financing
- Channel ownership
    - Zone 7 currently owns 37 miles of channel.
    - Acquisition of all major channels and even acquisition of only channels associated with SMMP projects would come at a prohibitive cost.
    - Acquisition of easements on channels associated with SMMP program would come at lower cost but could limit long term access.
- Issues for Board discussion:
    - Extent to which Zone 7 should pursue land ownership in support of the SMMP, and
    - Preserve existing ownership.

A brief discussion followed on property acquisition.

Director Myers stated that when Zone 7 does acquire property, we need to determine whether we really need it.

Director Quigley felt this might be an opportunity for partnering with schools and other public entities. He stated his belief that wherever possible Zone 7 should own the top of bank on both sides of channels. Further, the Board needs to think about adopting a “top of bank” policy. He believed this would facilitate not only our own channel maintenance activities but also assist first responders, mosquito abatement, etc., to gain access to the channels. Sometimes these areas are open for recreation.

Mr. Cusenza, City of Pleasanton, stated he was a little perplexed because he thought usually property owners, especially developers, wanted to give Zone 7 property, and sometimes that has not happened because of liability issues. Before making a decision, he recommended asking property owners if they are interested in selling. Before making a policy it seems that there are a lot of unknown costs.

Director Myers clarified and expanded upon his earlier remarks. He noted that we just heard we have a \$91 million shortage. Before we start a land acquisition program, we need to think about how much money we have and what utility the property will be to us. He believed each piece needs to be evaluated on a case by case basis to determine whether there is an economical cost benefit that makes sense.

President Palmer summarized by saying that the Board appears uncertain whether a policy is needed yet. She agreed that perhaps we need to ask if a particular piece of property is available and then decide on a site-specific basis.

There were no further questions.

#### **b. Flood Protection and Storm Water Drainage Development Impact Fee Ordinance.**

The Board heard a presentation by Mr. Ledesma summarizing the status of the proposed Development Impact Fee (DIF).

- Adoption of the Stream Management Master Plan (SMMP) necessitated an update of the existing drainage fee program.
- The firm of HDR Engineering was retained to perform a Development Impact Fee Study. The study produced a report which identified the rational nexus between new development and SMMP projects addressing flood protection and/or storm water drainage, and defining development's proportionate share of the costs of those projects.
- Meetings were held in spring and summer of 2008 with stakeholder groups in an attempt to refine the methodology used to calculate the new fee.
- The proposed new DIF is \$1.81/square foot of impervious surface.
- In July 2008 received a letter jointly signed by elected officials from the three Cities which requested that the Board refer the item to staff and an inter-agency liaison committee in order to address their concerns.
- A Joint City Liaison Committee meeting was held on August 26, 2008. Representatives of the Cities of Dublin, Livermore and Pleasanton met with the Board's City Liaison Committee to provide input on the proposed DIF. Many of the comments focused on the potential for grandfathering and phasing of the new higher fees.
- Since the meeting on 8/26/08, a joint letter has been received from the three cities which summarizes the key issues and challenges and urges that Zone 7 continue to meet with the cities to come up with a plan "that is mutually supported and jointly meets the needs of the Zone 7 Water Agency and the Cities within its service area."
- From Zone 7's perspective, both grandfathering of projects and/or phasing in of the proposed new DIF will lead to revenue shortfalls and mean that a higher fee will be needed in the future to make up for the lost revenue.
  - Projected \$10 million lost revenue to Zone 7 from grandfathering El Charro and Staples Ranch projects in at the existing lower drainage fee.
  - Projected losses of \$1.5 to \$2.2 million or \$9 to \$10 million from phasing the new fee depending on whether phasing is done over 1 year or 5 years.
- The cities did agree on certain key points:
  - There was agreement that the fee should be raised.
  - There was agreement on the methodology used to come up with the new fee.

- The cities questioned some of the assumptions used
  - Whether costs for the entire SMMP should be used to calculate the new fee.
  - Flood plain displacement in the chain of lakes area.
  - Percent allocation to future development.
  
- Staff is requesting direction from the Board on whether to continue working on grandfathering or phasing concepts.

Board comments:

Mr. Myers suggested that if the cities want Zone 7 to defer some needed revenue then perhaps the cities would be willing over time to volunteer part of that revenue stream they will be receiving from the new development and put it back into the drainage fee so that Zone 7 will have the money to build the program. He believed that is a key issue that needs to be pursued.

President Palmer added that the flood control program is an essential part of Zone 7's mission. The flooding danger is very real, and public health and safety is our main goal. Not taking care of potential flooding problems leaves Zone 7 open to liability issues.

Director Quigley agreed with President Palmer that flood control is an important part of the Zone 7 mission. He noted that he had been involved in the SMMP stakeholder process from the beginning, and he called attention to the nearly \$4 million that Zone 7 has spent on SMMP development to date. The cities were also involved from the inception, and for that reason he was opposed to any grandfathering provisions—because the cities have been at the table since 2002. However, he believed that staff should continue to work on a phasing concept. The original fee developed by HDR was \$1.30 sq. ft., and upon closer examination, it was determined that the new fee should be \$1.81/sq. ft. He was comfortable with starting at \$1.30/sq. ft., and ramping the fee up to \$1.81/sq. ft.

After confirming that all Zone 7-owned channels are designed for the 100-year storm event, Director Figuers asked if there were any channels in the Valley not up to 100-year storm standards, and, if so, will the SMMP projects have any impact on those areas? *(It was noted that approximately two-thirds of channels in the Valley are not owned by Zone 7 and, therefore, may not be up to 100-year storm capacity.)*

Ms. Duerig stated that Zone 7's overall approach to flood control has changed from looking at individual conduits and their capacity to looking at a regional solution where we take the peak flow and store it in the chain-of-lakes to release over a period of time following the peak flow. The whole concept of how we manage flood waters is very different with the SMMP program; it's an overall regional approach that contains projects for both upstream and downstream projects—although the bigger gains in not needing to expand capacity are probably downstream.

Director Stevens recalled that the Administrative Committee at its meeting on September 15, had agreed that grandfathering should not be allowed. Zone 7 is not in the business of approving or disapproving development. The committee could not come to consensus on phasing. He felt the key to keeping the costs of these projects in line was to use the chain of lakes. He suggested pursuing ways to get the lakes sooner.

Director Myers felt the concepts of grandfathering and phasing are the same. The bottom line is how much revenue do we lose? And, are the cities willing to reimburse at least a portion of that? If Zone 7

is willing to promote certain development by allowing it to pay a lower fee, and the cities are going to realize revenue from that development, wouldn't it be fair for the cities to take some of that revenue stream and put it back in the Zone 7 flood protection program?

Audience comments:

Mr. Steve Cusenza, City of Pleasanton, stated that all three cities strongly support both grandfathering projects already in the pipeline and phasing in the new, higher fee. The cities do agree that the fee should be raised. What they don't agree with is the method and implementation, especially when they are in the project development phases. While the cities were involved in the SMMP process, we did not receive any notice of the potential fee increase until three to five months ago. It gives you a perspective on a six-year process and a six-month financing proposal to work out. The cities are not asking for this to drag on. They want, on a staff level, to work with Zone 7 to answer the questions that are being brought up.

With regard to the question of a financial contribution from the cities, Mr. Cusenza stated that he did not believe that is the issue. These projects are already in the pipeline, and their financing has been done. The cities recognize that future development will pay the higher fee, and that revenue will still get to Zone 7. It's not that the Zone is not getting the revenue, it's how the revenue gets allocated amongst development and existing customers. Lastly, existing customers are afraid that the revenue lost through grandfathering will end up on their backs. That's not how the cities operate. Existing policies state that existing customers do not bear the costs of new development and that developers pay their own way. The lost revenue will be made up by new development. However, the cities need time to work through this so that it all equates out. In conclusion he stated that all of the cities need more time and urged Zone 7 to say yes to the concepts of grandfathering and phasing. The city staffs want to work with the Zone 7 staff on this issue.

Director Myers responded that pinning our hopes on future development is risky. One of the things he heard from Mr. Cusenza's statement was that the cities are not interested in sharing the additional marginal revenues from the development that will occur in order to provide insurance to Zone 7 that the SMMP projects will be built. We need to keep in mind that Zone 7 needs to be fair to future developers also and make sure that future developers are charged their fair share and are not carrying someone else's weight. He was willing to discuss it and see if we can make it work.

Regarding the question raised in the letter from the cities regarding the raising of rates in tough economic times, Director Myers felt the first thing that needs to be done is to make certain that we allocate costs and revenues and then deal with the philosophical issue of what do you do in tough economic times.

President Palmer stated that she appreciated that the cities are major stakeholders. However, the people who live in the cities are also major stakeholders, and it is their safety that our flood control program will be ensuring. We need to keep the safety of the customers foremost in our minds.

Mr. John Marchand, Vice Mayor and current Acting Mayor for the City of Livermore, made the following comments/requests:

- Request for Zone 7 to follow historic policy and allow the City's El Charro development which has been steadily moving forward to come under the current fee structure of the SDA 7-1 program. The project is self-mitigating and has not net impact on flood control.

- The City is concerned that the flood calculations portion of the proposed methodology which shows 65% of the costs imposed on the El Charro project do not accurately reflect the remaining available flood plain nor the revised costs. The City would like Zone 7 to continue to work with the three city staffs so that there is agreement on methodology and the calculation of costs for the StreamWISE program.
- Zone 7 has historically phased in fees. He cited the 2001 SDA 7-1 fee increase (which he voted for as a member of the Zone 7 Board) which was phased in over four years. Recently, current directors have been quoted in the paper as saying that they supported phasing.
- The fact that the El Charro Specific Plan has moved forward is because the City and Zone 7 have been working together to develop a more cost effective flood control program. 60% design drawings have been submitted and reviewed by Zone 7. The expectation was that the fees would reflect this more cost effective StreamWISE program.
- El Charro intends to install the first element of the StreamWISE program. The City is ready to enter into an agreement to accomplish this, however, it is subject to Zone 7's adoption of its CIP and 90% drawing approval. It now appears that the proposed fees may not reflect the actual program which is intended to be built.
- The El Charro project can provide \$32 million in benefits for about \$14 million. This \$18 million savings to the region is far more than the additional \$4 million that Zone 7 would potentially receive from the proposed fee increase.
- As for environmental mitigation, the El Charro Specific Plan provides for the purchase and dedication of mitigation lands in Doolan Canyon at three acres of mitigation habitat for every impacted acre. Doolan Canyon is prime ecological grassland habitat which provides a biological corridor all the way to Contra Costa County to the north and Morgan Territory and Brushy peak to the east.

In conclusion, Vice Mayor Marchand requested that Zone 7 continue to work with the city staffs to come to agreement with the calculation and assignment of costs for the new Development Impact Fee. Furthermore, he asked that the entitled El Charro project be allowed to come in under the current fee structure.

President Palmer asked for the date that the 60% plan was submitted.

Ms. Duerig stated that the 35% plans were received in August 2007, and that review resulted in a lot of redoing of how the projects in that area might move forward. The 60% plans were received in July 2008—about six weeks ago. Since then, we've been working out a scope of work for the engineering firm of West Yost & Associates, to do the 60% review. That work can begin as soon as the contract has been returned. We intend to work with the City. We're trying to collaborate and move forward as quickly as we can.

Just to clarify, Ms. Duerig advised that StreamWISE is a 10-year group of priority projects that will be based on funding. The SMMP itself is the full portfolio of projects that will likely take 30-40 years to implement and part of that is based on the long term acquisition of the gravel pit lakes, some of which haven't been quarried yet. So there are portions of the SMMP that will get done outside of the 10-year

window. When we calculate the costs that are due to development, we have to look at the full suite of projects not just those on the ten-year horizon. Zone 7 intends to meet with the city staff over the next week and receive comments and suggestions from them, including a discussion of the question asked by Director Myers about whether there are revenue sharing opportunities.

Director Myers clarified with Vice Mayor Marchand that the \$18 million in benefits which he mentioned from the El Charro project are identified benefits within the StreamWISE program. He stated that he would like to see the calculations.

In response to a question from Director Myers, Vice Mayor Marchand stated that the City was willing to talk about phasing or grandfathering. All options are on the table. The City wants to keep the project moving forward. He added that the financials for the project are based on the current SDA 7-1 drainage fee. There is concern that a fee increase will adversely impact the project from moving forward. He understood why the calculations would be helpful. That's why we need to keep talking.

President Palmer added that she was in favor of continued discussions but we need to keep a deadline in mind.

Ms. Melissa Morton, Director of Public Works, City of Dublin, thanked Zone staff for doing a good job collaborating and working with the cities. The projects in Dublin include the BART station where the financing is tied to the success of the project. The revenues from the project will help pay for the public transportation benefit to be provided in the Dublin and Pleasanton downtown areas.

- Regarding Director Myers' question about revenue sharing, she could not answer that at this time; however, the city would be willing to discuss it. Dublin wants an opportunity to meet further on the technical issues in the HDR report, e.g. methodology, prioritization, etc.
- With respect to grandfathering and phasing, she agreed with comments made by the representatives of the other two cities. The increase is a proposed 250% increase and it would be very difficult for the developers to conceptualize and work in a 250% increase. While Zone 7 has expressed resistance to grandfathering, the BART project, for instance, is very tenuously balanced with regard to finances, and she would like to see that project grandfathered.
- The Dublin total acreages are small compared to those in the other cities, but those projects represent long investments, and a 250% increase will certainly stop those projects. They represent future revenue in terms of tax base for Dublin as well as for Zone 7. The City would like to see those projects move forward.

Ms. Morton concluded her remarks by stating that in the spirit of collaboration we look forward to meeting with your staff next week and to try to come to a compromise that we can all agree on.

Mr. Doug Mann, Livermore resident, spoke again stating that he was in favor of development paying the cost of the increase. He reminded the Board of infrastructure needs.

Mr. Doug Mannette, Livermore resident, stated that he opposed grandfathering and phasing of the new rate increase. Development should fully pay the new fee. Favoring certain developers by grandfathering projects could be viewed as favoritism and opening the door to liability.

There were no further comments.

To summarize the discussion, President Palmer stated that she believed all options are on the table for discussion between Zone 7 and the cities. Additionally, we'll add the topics of potential revenue sharing and historical phasing on the part of Zone 7.

## ## ## ## ##

Because of the late hour, President Palmer suggested that Items 14 through 17 be skipped and the Board go directly into Closed Session.

There was no discussion on the following items:

**Item 14—Committees**

- a) Special City Liaison Committee meeting of August 19, 2008--minutes
- b) Joint City Liaison Committee meeting of August 26, 2008--minutes
- c) Finance Committee meeting of August 28, 2008--minutes
- d) Energy Committee meeting of September 9, 2008--minutes

**Item 15—Items for Future Agendas—Directors--None**

**Item 16—Reports—Directors--None**

**Item 17—Staff Reports** (Information items. No action taken.)

- a. General Manager's Report
- b. Recent & Upcoming Public Outreach Activities
- c. Mocho Groundwater Demineralization Project: Quarterly Project Update
- d. Verbal reports

Ms. Duerig stated that there was one short verbal update. She announced that the ozone pilot plant will be taken down soon. Any Director wanting a tour of that facility before it is dismantled should contact Mr. Arends before September 22 when the work is slated to begin.

The Board took a five-minute break and then went into Closed Session at 11:10 p.m.

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**Item 18—Closed Session**

- a) Conference with Legal Counsel - Existing litigation pursuant to Subdivision (a) of Government Code Section 54956.9: 3 cases
  - 1) Watershed Enforcers v. California Department of Water Resources et al., Alameda County Superior Court Case No: RG06292124
  - 2) Alameda County Flood Control & Water Conservation District, Zone 7 et al. v. California Department of Water Resources, Sacramento Superior Court Case No. 05AS0177
  - 3) County of Butte v. Department of Water Resources et al., Butte County Superior Court Case No. 144283

- 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 - Liability Claims: 1 case  
Claimant: Kenneth Sorenson
- d) Conference with Labor Negotiators:  
Agency Negotiator: Jill Duerig  
Alameda County Management Employees Association; International Federation of Professional and Technical Engineers, Local 21

### **Item 19—Open Session and Report Out of Closed Session**

President Palmer announced that in Closed Session the Board adopted the following resolutions:

Resolution No. 09-3227      Approving addition of a footnote to Appendix A to allow for reimbursement of Professional Engineer License Fees for the classifications of Assistant Engineer and Associate Civil Engineer.

Resolution No. 09-3228      Establishing a new position of Zone 7 Manager of Human Resources and Safety and authorizing the General Manager to pursue filling that position.

### **Upcoming Board Schedule**

(Location for all meetings is 100 North Canyons Parkway, Livermore, California)

- a. Regular Board Meeting: October 15, 2008, 7:00 p.m.

There was no further business and the meeting was adjourned at approximately 11:50 p.m.