

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

REGULAR MEETING
January 16, 2008

President Stevens called the regular meeting to order at 7 p.m., with a salute to the flag, and the Board went into Closed Session. 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
MATT KATEN, PRINCIPAL ENGINEER, GROUNDWATER PROTECTION
ATHENA WATSON, ASST. ENGINEER, CAPITAL PROJECTS
BARBARA MORSE, BOARD SECRETARY

Closed Session—7:00 p.m.

- a) Conference with Legal Counsel - Existing litigation pursuant to Subdivision (a) of Government Code Section 54956.9: 2 cases

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 v. Schmidig Family Limited Partnership/The Ferrari Family Limited Partnership, Alameda County Superior Court Case No. VG06292840

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

Open Session and Report Out of Closed Session—7:45 p.m.

President Stevens reconvened the meeting into Open Session. He announced that there was nothing to report out of Closed Session.

Item 5—Citizens Forum—No comments.

Item 6—Minutes of Regular Meeting of December 19, 2007

On a motion by Director Kalthoff with second by Director Greci, the Board approved the minutes of the regular meeting of December 19, 2007.

Item 7—Consent Calendar

Director Palmer requested that Item No. 7b be pulled from consent.

Director Greci moved for the approval of consent items 7a and 7c. The motion was seconded by Director Palmer, and the following resolutions/minute orders were approved by a vote of 7-0.

Resolution No. 08-3123 Approving request to Registrar of Voters to consolidate the 2008 election of three directors with the Primary Election of June 3, 2008 and to set \$1,978 as the amount to be collected up front for ballot statements. (Item 7a)

Resolution No. 08-3124 Approving a contract amendment for an additional \$200,000 with Meyers, Nave, Riback, Silver & Wilson for property acquisition services in connection with the Altamont Water Treatment Plant and Pipeline Project. (Item 7c)

Item 7b—Partnering and/or Joint-Funding Agreements: General Manager Authority

Zone 7 occasionally receives requests to partner with other public agencies and/or to jointly fund efforts of mutual interest and benefit to the participating agencies. Generally these requested contributions range from \$1,000 to \$15,000. Recent examples of these joint funding requests are from the Bay Area Flood Protection Agencies Association for IRWMP (\$3,500); BAWAC outreach project (\$15,000); 2007 Biennial State of the Estuary Conference (\$1,500).

To facilitate these partnering opportunities, it would be helpful for the General Manager to have delegated authority from the Board to enter into these minor partnering and/or joint funding agreements. The proposed limit for this delegated authority is \$25,000 per year for each such partnering or joint funding agreement.

Director Palmer requested that this item be pulled for discussion because she thought that perhaps the \$25,000 limit was too high.

Director Quigley asked if there would be any kind of sunset provision or if these funding agreements could go on in perpetuity. He stated that he would prefer to see a start and end for task and time so these agreements don't roll over continually. Over time, it could add up to a significant amount of money. He suggested bringing these types of agreements back for board or committee review at regular intervals.

Ms. Duerig stated that for some of these funding requests, there is a continual need. However, she did not have a problem with the Board or a committee reviewing these agreements on an annual or semiannual basis. As to the level of the general manager's authority with regard to these requests,

\$25,000 was selected because it is half of the amount of the general manager's contracting authority without prior Board approval.

In response to a question from Director Kalthoff, Ms. Duerig estimated that we get a dozen or so requests per year at an average cost of \$5,000 or less. We feel it would streamline the process and save time if we didn't have to bring these small items to the Board.

Director Greci stated that he felt the request is reasonable, and that the \$25,000 ceiling would provide the flexibility that is desired. Additionally, we need to remember that these are instances when partner agencies will also be providing funding.

Director Kalthoff moved for the adoption of Resolution No. 08-3125 delegating authority to the General Manager to enter into and execute Partnering and/or Joint Funding Agreements with other public agencies where Zone 7's share is in a not-to-exceed amount of \$25,000 annually per Agreement. The motion was seconded by Director Greci and passed by a vote of 5 – 2 with Directors Kohnen and Palmer voting no.

Item 8—Staffing Updates—New Employee Introductions

Mr. Yue introduced the following new employees:

- Mr. Tom Hughes, Human Resources Director
- Ms. Elke Rank, Assistant Water Resources Planner

Item 9—Report of Bids for the Altamont Pipeline Project

Mr. Arends reported on bids received for the Altamont Pipeline Project.

- Four bids were received and opened on December 18, 2007.
- The apparent low bidder was Ranger Pipeline, San Francisco, with a bid of \$37.4 million.
- The engineer's estimate was about \$50 million.
- Ranger's bid was about \$8.5 million lower than the next lowest bid.
- On December 21, 2007 Ranger Pipeline formally requested release from their bid.
- On December 24, 2007 Staff received a bid protest from Mountain Cascade (third low bidder) regarding the bid of Don Kelly Construction (second low bidder).
- On December 31, 2007 staff completed its bid analysis and found irregularities with two of the bids.
- On January 16, 2008 staff held an administrative hearing (with Ms. Duerig as the hearing officer) on Ranger Pipeline's release request.

Based on legal review and staff analysis of these facts, it is recommended that the Board take the following actions:

1. Accept Ranger's withdrawal of their bid and return their bid bond;
2. Reject all bids;
3. Authorize readvertisement and revise project, as appropriate; and
4. Amend the Black and Veatch consulting services contract for support during the re-bid process for an amount not to exceed \$250,000.

Director Palmer moved for the adoption of Resolution No. 08-3126 which approves the following actions:

1. Accept Ranger's withdrawal of their bid and return their bid bond;
2. Reject all bids;
3. Authorize readvertisement and revise project, as appropriate; and
4. Amend the Black and Veatch consulting services contract for support during the re-bid process for an amount not to exceed \$250,000.

The motion was seconded by Director Greci and passed by a vote of 7-0.

Item 10—Chain of Lakes Wells No. 1 and 2, Project No. 176-07-Increase to Contingency Amount

The Board heard an update by Ms. Athena Watson, Project Manager, on the Chain of Lakes Wells No. 1 and 2 which are being constructed under the Well Master Plan.

- The contract for these two wells was awarded on September 19, 2007 to Zim Industries, Inc., in the amount of \$1,089,660 which included a contingency of \$100,000 for the drilling, installing, developing and testing.
- Well No. 1 was constructed to a depth of 550 feet.
- Well No. 2 was constructed to a depth of 700 feet.
- Field conditions encountered during the work have resulted in the deepening of Well 2 by 150 feet to take advantage of better water bearing zones found at the deeper depths. Most of the original contingency was used for the additional labor and materials associated with this well deepening.
- In November 2007, the Board approved an additional \$60,000 in contingency in case future field conditions required further changes to be made.
- Since the installation of Well 2, the contractor has spent a significant amount of time developing the well using a test pump to increase well performance. Based on test data, Zone 7 staff and its consultants believe that the productivity of both wells would likely benefit from additional well development by applying different development techniques. Staff has been negotiating with the contractor to determine how best to proceed.
- Staff recommends increasing the contingency by \$180,000 for a new not-to-exceed amount of \$1,329,660 to facilitate the necessary work once an approach has been determined.

Director Greci had numerous comments and questions regarding the methods used to develop the well.

In response to a question from Director Greci on the current capacity, Mr. Matt Katen, Principal Engineer, Groundwater Protection & Projects, responded that it is at 3,000 gpm sustained capacity but we believe it could be increased by applying some different techniques.

Ms. Watson added that if enough extra well capacity is achieved, this could possibly decrease the total number of wells needed for the overall Well Master Plan project, which would be a significant savings in the long run.

Directors were pleased to hear that if these results are achieved, the additional development of these wells is an economical way to increase Zone 7's well capacity.

There were no more questions.

Director Greci moved for the adoption of Resolution No. 08-3127 authorizing a \$180,000 increase to the contingency amount of Zim Industries' contract for drilling, installing, developing and test of the Chain of Lakes Wells No. 1 and 2, bringing the not-to-exceed total contract amount to \$1,329,660. The motion was seconded by Director Quigley and passed by a vote of 7-0.

Item 11—Expenditure Authorization for Bay Delta Conservation Plan Consulting Services through December 2008

The Board heard a summary from Ms. Nemeth on tonight's requested action.

- In November of 2006, the Zone 7 Board authorized an overall budget ceiling of \$7.5 million for consulting services for completion of the Bay Delta Conservation Plan (BDCP). Since that time, the Zone 7 Board has authorized individual expenditures under that budget ceiling totaling \$1.85 million for work through February 2008.
- Estimated expenditures for BDCP consulting services, for which Zone 7 is the fiscal agent, are \$5.65 million through plan completion. Zone 7's proportional share for this contract is 1%, or \$56,500.
- As the fiscal agent, Zone 7 has cost share agreements in place with the Department of Water Resources, San Luis & Delta Mendota Water Authority, and Mirant Delta. Additionally, Zone 7 charges a 1.5% administrative fee to recover costs associated with processing invoices and lost interest on monies advanced as part of a normal billing cycle for services.

Tonight's requested action is to 1) authorize the General Manager to negotiate continued BDCP work and expenditures up to the \$5.65 million maximum (Zone 7's share is 1% of that amount.); and 2) authorize the General Manager to negotiate as needed agreements with the partner agencies. We are also suggesting that a special meeting be set for January 30 for an update on the BDCP process.

Director Greci read a statement expressing his continued support for Zone 7 involvement in the BDCP process.

- Zone 7 has a substantial stake in the BDCP process because we are dependent upon the Delta to convey 80 percent of our water supply from the State Water Project.
- There are many factors contributing to the current Delta crisis, including recent court rulings which limit pumping; deteriorating water quality; seismic risk to the fragile levee system, to name a few. The Wanger Decision of a few months ago mandated pumping restrictions that amount to a 30% reduction to Zone 7 water supply from the Delta.
- The successful completion of the BDCP process is important to Zone 7 in terms of reliability of water supply and water quality.
- Former General Manager Dale Myers and Ms. Nemeth have both been actively involved in the BDCP process. As of the end of January, Mr. Myers will no longer be representing Zone 7 in Sacramento; however, the work cannot stop and Ms. Nemeth will continue in her role.
- This is one of the most important issues that we are involved in, and he urged increased communication with the retailers and the community as well as increased education and outreach to let the public know what is at stake.
- He believed that we need to maintain our involvement in the BDCP process at the same level.

Directors Palmer and Quigley agreed.

Director Quigley noted that weekly Delta updates are available on the ACWA and DWR websites.

Director Kohnen stated that he shared the concern about the Delta and supported continuing on this path.

There were no further comments.

Director Greci moved for the adoption of Resolution No. 08-3128 authorizing the General Manager to 1) authorize work and associated expenditures under existing consultant contracts related to the BDCP; and 2) negotiate and execute contracts and/or amendments for services with SAIC and other consultants as necessary and selected by the Potentially Regulated Entities with the total not-to-exceed-amount of \$5.65 million authorized for all consulting services through the Plan's completion. The motion was seconded by Director Concannon and passed by a vote of 7-0.

At Ms. Duerig's suggestion, the Board set January 30, 2008 as the date of a special board meeting on Delta issues.

Item 12—Committees

- a. Administrative Committee: January 8, 2008 – minutes available. The Committee met to hear an update on the StreamWISE Project, including project evaluation criteria and ranking; potential policy issues; funding options; and phasing and sequencing of projects. Also on the agenda was an update on the Development Impact Fee and Engineering Study which will provide the basis for a new development fee ordinance to replace the SDA 7-1 drainage fee ordinance.

Ms. Duerig stated that the committee decided to meet again to review the ordinance and possible exemptions before it goes to the full Board for adoption.

Director Kohnen felt that an important part of the development of the StreamWISE program was the ranking of projects. He was concerned that the projects are well integrated so that there is a cohesive stream management program where each project supports the others.

Director Greci stated that after hearing the presentation by Mr. Nakano at the committee meeting, he has confidence that the individual projects will be grouped and sequenced properly. He noted that there is a potential \$260 million savings as a result of this work.

Item 13—Items for Future Agendas—Directors

Director Quigley called attention to changes on the Zone 7 website and suggested a brief tutorial for the Board on how to use the new features on water conservation and the watershed.

Director Stevens asked about possible changes to the Water Reliability Policy.

Ms. Duerig responded that no changes are being proposed yet. We are waiting for a better assessment on the impacts of the Wanger Decision before suggesting any changes. She added that the

Sustainability Report is due in April and reliability will be a part of that. We will also be talking to the retailers before proposing any changes to the Reliability Policy.

Item 14—Reports—Directors

Director Quigley reported on attending the following events:

- Zone 7 staff Christmas potluck on December 21.
- CSDA Regulatory Breakfast—Speakers were Supervisor Nate Miley and the President of Cal State East Bay. Topics of discussion focused on livable communities with emphasis on sustainability, water, transportation and education.

Director Quigley gave kudos to the water conservation awareness messages on the City of Pleasanton's water bill mailing envelopes. He also called attention to the California Children's Outdoor Bill of Rights (located on the governor's website). He stated that he strongly believed that any environmental and conservation strategy that we touch should consider public access and egress and the Children's Outdoor Bill of Rights.

Director Kohnen reported that he is the new President of the Mosquito Abatement District and as such he attended the California Mosquito Abatement and Vector Control annual conference in Palm Springs. One of the topics on everyone's mind was the governor's mandated 10% cut for state agencies (this will filter down to local agencies). He also felt that we need to keep an eye on what happens in the legislature and keep an eye on what happens with Prop 93 (term limits). If it passes and terms are extended, the legislators are likely to vote one way; if they all become lame ducks, they will likely think another way—it's something to think about. We are in the midst of a financial crisis which will affect us all. The last time Zone 7 lost two years worth of flood control funding (ERAF shift). He noted that the General Manager has sent letters to legislators and the governor making them aware that we have already made our contribution (through the ERAF shift) and any further contributions should be shared by other entities. He noted that Supervisor Haggerty was also copied on the letter, and he urged staff not to forget that Supervisor Miley represents Dublin on the Alameda County Board of Supervisors. We have two potential votes on the Board of Supervisors (Supervisors Haggerty and Miley), and we should use both of them.

He continued by noting that property tax revenue is down, and that will affect our revenue stream in our flood control operations. The concern about mortgage foreclosures is not going away. We need to be prepared to do more with less.

Director Kohnen stated that he is the new president of the Valley Spokesmen bicycle group. Because of his involvement in bicycling he has become more aware of the bicycle lanes along our flood control channels. He added that he is very concerned about the crossing between Dublin and Pleasanton over our channel which both Caltrans and the Corps of Engineers are objecting to but which would be a boon to transportation in the Valley.

He concluded by saying that he is excited about his new positions as president of the Mosquito Abatement District and the Valley Spokesmen.

Item 15—Staff Reports (Information items. No action taken.)

- a. General Manager’s Report
- b. Recent & Upcoming Public Outreach Activities
- c. Verbal reports--None

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Upcoming Board Schedule

There will be a special meeting on January 30, 2008 at 7:00 p.m., to hear an update on the Bay Delta Conservation Plan.

- a. Special Board Meeting: January 30, 2008, 7:00 p.m.
- b. Finance Committee Meeting: February 7, 2008, 3:45 p.m.
- c. Regular Board Meeting: February 20, 2008, 7:00 p.m.

There being no further business, the meeting adjourned at about 8:45 p.m.