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MINUTES OF THE REGULAR MEETING  
OF THE BOARD OF DIRECTORS OF  
DIABLO WATER DISTRICT  
HELD ON JUNE 23, 2021

Directors:  
Paul Seger  
President

Scott R. Pastor  
Vice President

Kenneth L. Crockett  
Marilyn Tiernan  
Joe Kovalick

General Manager  
& Secretary:  
Daniel Muelrath

General Counsel:  
Wesley A. Miliband

Due to the current COVID-19 Pandemic, Local Health Orders, and the Governor's Health Orders, the Regular Meeting of the Board of Directors of Diablo Water District was held on June 23, 2021 at 6:30 pm via conference call / web as noticed in the posted agenda.

**1. Call to Order and Roll Call**

The regular meeting of the Board of Directors of Diablo Water District (District) was called to order by President Seger at 6:31 p.m. on June 23, 2021.

Directors Present: Seger, Pastor, Crockett, Tiernan, Kovalick  
Staff Present: Dan Muelrath, Kait Knight, Nacho Mendoza,  
Jennifer McCoy  
General Counsel: Wes Miliband (AARLL)  
District Engineer: Bill Brick (CDM Smith)  
Others Present: Angela Lowery (ISD Liaison), Andria Loutsch (CDM Smith), Members of General Public

**2. Public Input.** (Anyone present may address the Board of Directors on any subject within the jurisdiction of Diablo Water District. If the subject item is on this Agenda, please hold public comment until the appropriate item).

None.

**At the request of Director Kovalick the Closed Session Agenda Items #3 and #4 were moved to after Item 20.**

**3. Public Employee Appointment.**  
(Government Code Section 54957)  
Title: General Manager (Discussion Only).

**No reportable action.**

**4. Conference with Legal Counsel - Anticipated Litigation.**

(Government Code 54956.9(d)(2))

One Potential Case.

**No reportable action.**

**5. Consent Calendar.**

It is recommended by the General Manager that these items, which are expected to be routine in nature and without controversy, be received and acted upon by the Board without discussion. If any Board member or interested party requests that an item be removed from the Consent Calendar for discussion, it will be considered separately. *The consent calendar may be approved by a single motion to approve, followed by a second and then a call for vote.*

**A. Amend Previously Adopted Resolution 2021-11 and Regulation 11 to Correct Numbering.**

Staff Recommendation: Approve.

**B. Amend Regulation 124 – Credit Cards to Reflect Current Job Titles.**

Staff Recommendation: Approve Resolution No. 2021-11.

**C. Amend Regulation 5 – Temporary Water Service.**

Staff Recommendation: Approve Resolution No. 2021-12.

**D. Amend Regulation 106 – Personnel Rules to Reflect Current CalPERS Requirements for Holiday On Call Pay.**

Staff Recommendation: Approve Resolution No. 2021-13.

**E. Minutes of the Regular Meeting of May 26, 2021.**

Staff Recommendation: Approve.

It was moved by Director Kovalick, and seconded by President Seger, to pull item 5.C and 5.D for discussion.

It was moved by Director Tiernan, and seconded by President Seger, to pull item 5.B for discussion.

It was moved by Director Kovalick, seconded by Director Tiernan, and approved by the following vote to approve the Consent Calendar items 5.A and 5.E.

AYES: Pastor, Crockett, Kovalick, Tiernan, Seger

NOES: None

ABSTAIN: None

After further discussion of item 5.B, it was moved by Director Kovalick, seconded by Director Tiernan, and approved by the following vote to approve the Consent Calendar item 5.B, with Regulation 124 to be amended to reflect any instances of “Accounting Operations Manager” be updated to reflect “Finance and Accounting Manager”.

AYES: Pastor, Crockett, Kovalick, Tiernan, Seger

NOES: None

ABSTAIN: None

After further discussion of item 5.C, it was moved by Director Kovalick, seconded by Director Tiernan, and approved by the following vote to approve the Consent Calendar item 5.C with additional language to be added to Section 5 second sentence to align with the first sentence “...Fire Hydrants, Water Meters, and other District Infrastructure and Appurtenances...”

AYES: Pastor, Crockett, Kovalick, Tiernan, Seger

NOES: None

ABSTAIN: None

After further discussion of item 5.D, it was moved by President Seger to pull item 5.D to be brought back at the next Regular Board Meeting.

**6. Adoption of the District’s 2020 Urban Water Management Plan and Water Shortage Contingency Plan.**

Staff Recommendation: Approve Resolution No. 2021-14 adopting the District’s 2020 Urban Water Management Plan; and  
Approve Resolution No. 2021-15 adopting the District’s 2020 Water Shortage Contingency Plan.

Received presentation from Andria Loutsch (CDM Smith).

President Seger requested that this item not be approved so additional changes to language could be made, and a special meeting be held before the July 1, 2021 deadline to adopt. Director Tiernan and President Seger both expressed concerned for the hardness levels doing damage to pipes and fixtures.

It was moved by Director Crockett, seconded by Vice President Pastor, and failed by the following 2-3 vote to approve the adoption of the 2020 Urban Water

Management Plan and 2020 Water Shortage Contingency Plan, and its corresponding resolutions.

AYES: Pastor, Crockett  
NOES: Kovalick, Tiernan, Seger  
ABSTAIN: None

It was moved by Director Kovalick, seconded by Director Tiernan, and approved by the following vote to delay the adoption of the 2020 Urban Water Management Plan and 2020 Water Shortage Contingency Plan, and approval of the corresponding resolutions, to a special meeting to be held before the July 1, 2021 deadline.

AYES: Pastor, Kovalick, Tiernan, Seger  
NOES: None  
ABSTAIN: Crockett

**7. Award of Contract for Water Rate Consulting Services.**

Staff Recommendation: Authorize the General Manager to execute a professional services agreement for water rate consulting services with HF&H Consultants, LLC in an amount not to exceed \$67,203, plus a 10% contingency.

Director Crockett voiced that he felt the District should have done a rate increase when CCWD raised their water costs, and we are now wasting the rate payer's money on a rate study. Director Kovalick responded that the rate structure will be different and may benefit low-water users.

It was moved by Director Tiernan, seconded by Director Kovalick, and approved by the following vote to authorize the General Manager to execute a professional services agreement for water rate consulting services with HF&H Consultants, LLC in an amount not to exceed \$67,203, plus a 10% contingency.

AYES: Pastor, Kovalick, Tiernan, Seger  
NOES: Crockett  
ABSTAIN: None

**8. ACWA Region 5 Board Nomination.**

Staff Recommendation: Adopt Resolution No. 2021-16 supporting President Seger's nomination to the ACWA Region 5 Board, and authorizing staff to submit requested forms to ACWA.

It was moved by Director Tiernan, seconded by Director Kovalick, and approved by the following vote to renumber and adopt Resolution No. 2021-13 supporting President Seger's nomination to the ACWA Region 5 Board, and authorizing staff to submit requested forms to ACWA.

AYES: Pastor, Kovalick, Tiernan, Seger  
NOES: None  
ABSTAIN: Crockett

**9. Award of Contract for Engineering Services to Develop an Operations and Maintenance Capital Repair and Rehabilitation Plan**

Staff Recommendation: Authorize the General Manager to execute a professional services agreement for engineering services to develop an Operations and Maintenance Capital Improvement Plan with the District's Engineer, CDM Smith, in an amount not to exceed \$114,028, plus a 10% contingency.

It was moved by Director Kovalick, seconded by Director Tiernan, and approved by the following vote to authorize the General Manager to execute a professional services agreement for engineering services to develop an Operations and Maintenance Capital Improvement Plan with the District's Engineer, CDM Smith, in an amount not to exceed \$114,028, plus a 10% contingency.

AYES: Pastor, Crockett, Kovalick, Tiernan, Seger  
NOES: None  
ABSTAIN: None

**10. Award of Contract for Engineering Services to Develop Phase 1 of 2, Seismic Improvement Plan for District Reservoirs.**

Staff Recommendation: Authorize the General Manager to execute a professional services agreement for engineering

services to develop a Seismic Improvement Plans for District reservoirs with the District's Engineer, CDM Smith, in an amount not to exceed \$87,129, plus a 10% contingency.

It was moved by Director Kovalick, seconded by Director Tiernan, and approved by the following vote to authorize the General Manager to execute a professional services agreement for engineering services to develop a Seismic Improvement Plans for District reservoirs with the District's Engineer, CDM Smith, in an amount not to exceed \$87,129, plus a 10% contingency.

AYES: Pastor, Crockett, Kovalick, Tiernan, Seger

NOES: None

ABSTAIN: None

**11. New and Updated Environmental Regulations Based on Resolution 2021-02.**

Staff Recommendation: Adopt Resolution No. 2021-17 approving the amendments to Regulations 107 and Regulation 8 and establishing Regulation 11.

Director Kovalick expressed that he would still like a complete ban on front yard turf installation for new development. General Counsel Miliband shared that he has had similar experiences to General Manager Muelrath regarding not being able to find case law that would support a turf ban. General Manager Muelrath suggested amending language to work with land use authorities to minimize installation of new turf.

Finance and Accounting Manager, Jennifer McCoy, asked if it was possible to implement a contract between developers and new homeowners on not switching out landscape to turf.

It was moved by Director Tiernan, seconded by Director Kovalick to pull Regulation 8 from the agenda to allow time for further research by General Counsel. General Manager Muelrath reminded the Board that Regulation 8 needed to be updated and adopted with the Urban Water Management Plan and would be included in the special meeting to be held before the July 1, 2021 deadline to adopt.

It was moved by Director Kovalick, seconded by Vice President Pastor, and approved by the following vote to renumber and adopt Resolution No. 2021-14 approving the amendments to Regulations 107 and establishing Regulation 11, with Regulation 8 being pulled.

AYES: Pastor, Crockett, Kovalick, Tiernan, Seger  
NOES: None  
ABSTAIN: None

**12. Update Regulation 101 – Proceedings of the Board.**

Staff Recommendation: Adopt Resolution No. 2021-18 amending current Regulation 101.

It was moved by Director Kovalick, seconded by Director Tiernan, and approved by the following vote to renumber and adopt Resolution No. 2021-15 amending current Regulation 101.

AYES: Pastor, Crockett, Kovalick, Tiernan, Seger  
NOES: None  
ABSTAIN: None

**13. Authorization to Write Off Uncollectible Accounts for FY 2020-2021.**

Staff Recommendation: Authorize staff to write off \$17,553.77 in bad debt from the financial system.

It was moved by Director Tiernan, seconded by Vice President Pastor, and approved by the following vote to authorize the General Manager to authorize staff to write off \$17,553.77 in bad debt from the financial system.

AYES: Pastor, Crockett, Kovalick, Tiernan, Seger  
NOES: None  
ABSTAIN: None

**14. Financial Reports.**

Staff Recommendation: Approve warrant register 2021-5, ACH and wire transactions, and receive the monthly financial statements.

It was moved by Director Crockett, seconded by Director Kovalick, and approved by the following vote to approve warrant register 2021-5, ACH and wire transactions, and receive the monthly financial statements, with an amendment to warrant register 2021-5 to read, “May Payroll Direct Deposit \$92,921.02”.

AYES: Pastor, Crockett, Kovalick, Tiernan, Seger

NOES: None

ABSTAIN: None

**15. General Manager's Reports.**

- Water Supply Charts

**16. General Counsel's Reports.**

- General Counsel advised there will be upcoming discussions on prior orders from the Governor related to COVID-19 that will be addressed on September 30<sup>th</sup>.
  - Ongoing moratorium on water connection shut offs for non-payment.
  - Brown Act reverting to traditional rules and processes.

**17. Engineer's Reports.**

- Construction project updates were provided on projects that made significant progress since the previous Board meeting.

**18. Director's Reports.**

- Representatives presented verbal reports on meetings they attended.

Director Kovalick shared concerns over the copper-based chemicals being sprayed in the canals that were discussed at the CCWD Board meeting. He has a list of the chemicals that he would like to be sent out for review. He also asked that General Counsel Miliband and General Manager Muelrath look into a seat on the JPA at RBWTP.

**19. Future Agenda Items.**

- Preliminary list of items for the next two months.
- Other items being tracked and awaiting a scheduled date.

President Seger suggested that General Manager Muelrath present on landscape water use at a future board meeting or workshop.

**20. Next Meetings of the Board of Directors.**



- July 28, 2021
- August 25, 2021
- September 22, 2021

**21. Adjournment.**

Director Crockett adjourned the meeting at 11:12 p.m.

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**Dan Muelrath, General Manager/Secretary**