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MINUTES OF THE REGULAR MEETING  
OF THE BOARD OF DIRECTORS OF  
DIABLO WATER DISTRICT  
HELD ON SEPTEMBER 22, 2021

Directors:  
Paul Seger  
President

Scott R. Pastor  
Vice President

Kenneth L. Crockett  
Marilyn Tiernan  
Joe Kovalick

General Manager  
& Secretary:  
Daniel Muelrath

General Counsel:  
Wes 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 September 22, 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 September 22, 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), Geoff Michalczyk (HF&H Consultants), John Farnkopf (HF&H Consultants), Bryan Todd (Roebelen Contracting, Inc.), Members of General Public

**General Manager Muelrath requested that an emergency item be added to discuss AB 361.**

It was moved by President Seger, seconded by Director Crockett, and approved by the following vote to add this item between agenda items 9 and 10 for action.

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

ABSTAIN: None

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.

3. **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. **Minutes of the Regular Meeting of August 25, 2021.**

Staff Recommendation: Approve.

It was moved by Vice President Pastor, seconded by Director Crockett, and approved by the following vote to approve the Consent Calendar.

AYES: Pastor, Crockett, Kovalick, Tiernan, Seger

NOES: None

ABSTAIN: None

4. **Financial Reports.**

Staff Recommendation: Approve warrant register 2021-8, ACH and wire transactions, and receive the monthly financial statements.

It was moved by Director Crockett, seconded by Director Tiernan, and approved by the following vote to approve warrant register 2021-8, ACH and wire transactions, and receive the monthly financial statements.

AYES: Pastor, Crockett, Kovalick, Tiernan, Seger

NOES: None

ABSTAIN: None

**5. Water Rate Study Update.**

Staff Recommendation: Provide direction to HF&H Consultants.  
Received presentation from HF&H Consultants.

The general consensus of the Board of Directors was that there was still more information needed on final numbers before decision-making begins; however, the ad hoc was moving in the right direction with adding additional cost-based tiers.

President Seger appreciates adding an extra tier, but expressed it is unacceptable to raise the cost of water for the people using the least amount of water. Director Kovalick agreed and wanted the tiers to discourage excessive water usage.

The Board discussed the hydrant maintenance cost recovery options and Director Kovalick felt it was a matter of fairness as property owners that don't contribute to the cost will still allow them the benefit. This would be 750 users, so he did state he understood it was a small number. Director Tiernan agreed that property assessments should be the way to go, so all benefitting are paying.

Vice President Pastor stated that the amount of money it would cost for the assessment isn't worth it. No matter how much we communicate, people will not understand what they are paying for one way or another.

President Seger agrees that everyone who is benefitting is not paying, but it is such a small percentage and there are no guarantees people would vote for it.

General Counsel Miliband recommended the Board not take action and bring it back with more information at a future meeting.

**6. Corporation Yard Contract Award.**

Staff Recommendation: Authorize the General Manager to work with the Board's Corporation Yard ad hoc subcommittee and Roebbelen Contracting Inc. to perform value engineering analysis, bid alternate selection, final scope negotiations, and contract execution with Roebbelen Contracting Inc.

Director Tiernan wanted to know what the original quote was and if that included solar. Director Kovalick responded that the original quote was \$4 million and that

did not include solar. He added that the contractors reviewing the original quote stated it was lean even in 2019, and that the rest of the increase was the result of the pandemic. There is no way to know if prices will ever come down.

Byan Todd, with Roebbelen Contracting Inc., included that based on the District's sustainability goals, that the building will be constructed of recycled materials where applicable.

The consensus of the directors was that they were comfortable with General Manager Muelrath and the ad hoc committee moving forward in making decisions on the plans and estimates.

It was moved by Director Tiernan, seconded by Director Kovalick, and approved by the following vote to work with the Board's Corporation Yard ad hoc subcommittee and Roebbelen Contracting Inc. to perform value engineering analysis, bid alternate selection, final scope negotiations, and contract execution with Roebbelen Contracting Inc.

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

**7. Recycled Water Regulation.**

Staff Recommendation: Adopt Resolution No. 2021-26 establishing Regulation 12 – Recycled Water.

Dawn Morrow, with Ironhouse Sanitary District, congratulated the District on this Regulation and mentioned she was excited to work with the District on this endeavor.

It was moved by Director Tiernan, seconded by Vice President Pastor, and approved by the following vote to adopt Resolution No. 2021-26 establishing Regulation 12 – Recycled Water.

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

**8. District Grants Update.**

**8. District Grants Update.**

General Manager Muelrath provided an update on the District's current grants.

**9. Groundwater Sustainability Plan Update.**

Public Comment from Mike Moore, resident of Oakley, was read by President Seger, and is attached.

Director Crockett mentioned that most of the oil and gas wells up and down Empire Avenue are sealed and dried up and that these wells are not affected by drilling as they are usually drilling much deeper than where the aquifers are drawn from.

General Manager Muelrath explained that the GSP working group was going to have an additional meeting to see if more needed to be added to the GSP. He acknowledged that the GSP did reference these abandoned wells; however, there wasn't a detailed explanation on criteria for abandonment, and that the GSAs should be looking at these wells moving forward.

President Seger inquired if there was a scenario where there could be contamination of our groundwater? General Manager Muelrath responded that there is casing and protective measures in place, but no one can say it could never leak or be contaminated.

Public Comment: Jovita Mendoza wanted to know if the GSP is looking at the permits for the future wells that Brentwood wants to install. President Seger responded that she should be able to address Luhdorff & Scalmanini directly since she is a member of Brentwood City Council. Jovita responded that she wasn't aware of any of this through the city, and she would follow up with her City Manager.

President Seger requested that General Manager Muelrath strengthen what the public comment was referencing in addressing high TDS at the border of Brentwood and Oakley.

Director Tiernan wants the GSP to add to the section on water quality stating that it is too short, and no one wants to really address it.

**Emergency Item: AB 361.**

The Governor's Executive Order allowing teleconference rule waivers to sections of the Brown Act expires September 30, 2021. A new bill (AB 361) was signed late last week, but the bill had conflicts with the Governor's current executive order. A new Executive Order was issued September 20, 2021, by the Governor, with clarifying language. General Manager Muelrath provided the board with three options to discuss and act on.

1. Go back to in-person with masks and provide a remote attendance option for the public.
2. Remain remote under the existing Brown Act provisions which would require adding all Director's remote locations addresses to the agenda, posting the agenda at these locations, and these locations would need to be available for the public to attend.
3. Adopt a resolution to switch to AB 361 provisions, which requires an initial and follow-up resolution adoption.

General Manager Muelrath advised that a resolution was ready for tonight if requested by the Board and that AB 361 provisions are only an option under statewide declared emergencies.

The consensus of the board was that although they would like to return to in-person meetings, due to the current pandemic, they should remain virtual.

It was moved by Vice President Pastor, seconded by Director Kovalick, and approved by the following vote to adopt Resolution No. 2021-27 to continue virtual board meetings.

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

**10. General Manager's Reports.**

- Water Supply Charts
- CCWD Pesticide/Herbicide usage
- SWRCB Water Saving Report
- COVID Arrearage Update

Director Kovalick requested that the CCWD list of pesticides and herbicides be sent to him for review. He expressed his biggest concern is the use of Round-Up.

Director Tiernan added that she would like the list reviewed for the active ingredient in Round-Up as well (glyphosate).

Director Tiernan also inquired about State funding for COVID arrearages that were being advertised to tenants and landlords. General Manager Muelrath clarified that this was the State's original funding plan; however, they are now reaching out directly to the utility companies to supply that information. He also added that we have only had one customer take advantage of that program, yet no funds have been received.

**11. Engineer's Reports.**

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

Director Kovalick inquired about the progress of well water treatment and seismic retrofits. Bill Brick, CDM Smith, updated that the well treatment technology kickoff meeting with the District had just occurred the day before, and they are working on models and scope of work to give different operating scenarios. They hope to meet with ISD towards the end of November.

President Seger wanted to know if the water coming from the well that we are treating would always need to be treated regardless of hardness levels and Bill Brick confirmed that the hardness from groundwater is high by nature so some treatment will need to occur to treat at least part of it to reach blend quantities desired.

Regarding seismic progress, CDM Smith making good progress on the report and hope to have a draft in a couple of weeks to General Manager Muelrath.

**12. General Counsel's Reports.**

- General Counsel had nothing to report.

**13. Director's Reports.**

- Representatives presented verbal reports on meetings they attended.

Vice President Pastor reported that at ISD's board meeting there was mention of water rights and reporting usage that he was unclear on. Angela Lowery, ISD Liaison, clarified that the water rights topic was in response to an issuance from

SWRCB's curtailment regarding the Jersey Island diversion. She added that their District is now required to file monthly water rights compliance reports.

Director Kovalick shared that he enjoyed touring RBWTP and noticed that there was open land that the District should consider for a possible future purchase. He also commented on the Monterey One Water Tour. He thought their approach to recycling water was well thought out and well done. Angela Lowery also shared that she enjoyed all the information and that getting staff on board with early buy-in for projects like this is what makes them so successful. President Seger commented that we would need a couple of large investments to get to the high-quality standard. Director Kovalick confirmed that there was a five-step process to make the water potable, but if we went with indirect potable, we may not need that many steps. Angela Lowery mentioned that ISD recently had a strategic planning meeting, and the City of Oakley has said there is room for recycled water in Oakley. She is excited to see all these players in Oakley come to the table.

Director Tiernan reported on the GSP Public Workshop she attended. She shared that the public was speaking out on this topic and that the District did a great job on outreach.

President Seger reported that the City of Oakley had a special meeting on educating the new city council on the redistricting process. He acknowledged General Manager Muelrath for offering to comment and share on this topic, and that he hopes we continue to have this good relationship with the city. The previous meeting included discussion on extending the existing development agreement for Summerlake North to 2032 and requiring that homeowners be notified of gas wells. This meeting also included discussion on the proposal for a polo field which would include 5-10 acres of grass. The city declared that there would be enough water for it, so President Seger assumes it would be watered from wells. General Manager Muelrath added that the GSP and our groundwater regulations would prevent wells just being punched in. This would most likely be recycled water usage.

**14. Future Agenda Items.**

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

President Seger wanted to know if the District had reached out to the city regarding the art on R1. General Manager Muelrath replied that we will need to go through

design review once we are ready to move forward on this. President Seger also wanted the District to put Net Metering Energy on as a future agenda item.

Director Tiernan wanted to make sure the District was participating in the local festivals that Oakley is hosting. She also mentioned getting involved with the schools for education. Angela Lowery mentioned she would love for ISD to be included in any education outreach about the water cycle.

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

- October 27, 2021
- November 17, 2021 Special Meeting
- ~~November 24, 2021 cancelled~~
- December 15, 2021 Special Meeting
- ~~December 22, 2021 cancelled~~

**16. Adjournment.**

Director Crockett adjourned the meeting at 10:43 p.m.



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**Dan Muelrath, General Manager/Secretary**

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From: Diablo Water District <[donotreply@diablowater.org](mailto:donotreply@diablowater.org)>

Sent: Wednesday, September 22, 2021 7:33 AM

To: Customers <[customers@diablowater.org](mailto:customers@diablowater.org)>

Subject: Public Comment From Website

Name: Mike Moore

Email: [mikemoore315@yahoo.com](mailto:mikemoore315@yahoo.com)

Message:

Dear DWD Board of Directors and Management,

I would like to comment on Item 9 on the agenda of the September 22, 2021 Diablo Water District Board of Directors meeting. I attended the September 14 meeting of the East Contra Costa Subbasin(ECC Subbasin) meeting where they rolled out the Final Draft of the Groundwater Sustainability Plan(GSP). In preparation of that meeting, I read the entire 407 page Final Draft and was familiar with the 723 page Appendix. While I found the discussion was thorough and comprehensive in the areas that it covered, I found it was lacking in any findings on the impact of oil & gas drilling on groundwater.

Per the Department of Conservation, Geologic Energy Management Division Wellfinder map, there are many plugged and idle oil & gas wells within the boundaries of the Diablo Water District. I believe that there is a risk that these oil & gas wells may impair the quality of the groundwater or subsidence over time. Other GSP Sustainability Indicators may also be impacted.

The GSP Working Group has committed to take up this matter at its next meeting. I would urge that the DWD management and Board of Directors as a Groundwater Sustainability Agency follow-up and confirm that the GSP Working Group conducts a thorough and comprehensive investigation on the impact of oil & gas wells on groundwater within the ECC Subbasin.

Best Regards,

Mike Moore

Oakley, CA