



MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS OF
DIABLO WATER DISTRICT
HELD ON APRIL 26, 2023

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Directors:
Marilyn M. Tiernan
President

Scott R. Pastor
Vice President

Paul Seger
Joe Kovalick
Jason Shaw

General Manager:
Daniel Muelrath

General Counsel:
Wesley A. Miliband

Secretary:
Kait Knight

The Regular Meeting of the Board of Directors of Diablo Water District was held on April 26, 2023 at 6:30 pm at the District's office, 87 Carol Lane, Oakley, California and 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 Tiernan at 6:40 p.m. on April 26, 2023.

Directors Present: Tiernan, Pastor, Seger, Kovalick, Shaw
Staff Present: Dan Muelrath, Kait Knight, Nacho Mendoza, Wayne Weaver, Jennifer McCoy
General Counsel: Wes Miliband (AARLL)
District Engineer: Bill Brick (CDM Smith)
Others Present: Peter Stabb (CCWD), Dave Huey (CCWD), Miki Tsubota (CCWD), 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). **All virtual attendees will remain on mute until called upon to address the Board.**

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 Special Meeting of March 29, 2023.

Staff Recommendation: Approve.

B. Adopt Resolution Number 2023-05 Authorizing the Grant Application, Acceptance, and Execution for the Emergency Drinking Water Response Trailer Project.

Staff Recommendation: Adopt Resolution Number 2023-05.

C. Adopt Resolution Number 2023-06 Authorizing Staff to Submit Grant Applications.

Staff Recommendation: Adopt Resolution Number 2023-06.

It was moved by Director Seger, seconded by Director Shaw, and approved by the following vote to approve the Consent Calendar.

AYES: Pastor, Seger, Kovalick, Shaw, Tiernan

NOES: None

ABSTAIN: None

4. RBWTP Budget.

Representatives from Contra Costa Water District.

The Directors received a presentation on the Randall-Bold Water Treatment Plant (RBWTP) capital improvement budget.

Director Kovalick requested information on how much sodium hypochlorite is added to the water. Dave Huey advised he would investigate that and get the information back to General Manager Muelrath.

Director Seger asked how much energy the plant was using annually, and Dave Huey replied that they are using 3.4 MW and 22% was for DWD treatment. Director Kovalick asked if there were plans for solar or other energy sources in the next 10-year period. Peter Stabb advised that they plan to revisit the recent solar study in 2024.

5. LAFCO Special District Alternate Seat Vote.

Staff Recommendation: Authorize the Board President to cast the District's vote for Vice President Pastor.

It was moved by Director Seger, seconded by Director Kovalick, and approved by the following vote to authorize the Board President to cast the District's vote for Vice President Pastor.

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

6. Update Regulation 106 and Regulation 129 – Human Resources.

Staff Recommendation: Adopt Resolution No. 2023-07.

It was moved by Director Kovalick, seconded by Vice President Pastor, and approved by the following vote to adopt Resolution No. 2023-07.

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

7. Financial Reports.

Staff Recommendation: Approve warrant register 2023-03, ACH wire transactions for March 2023, and receive the monthly financial statements.

It was moved by Director Seger, seconded by Director Shaw, and approved by the following vote to approve warrant register 2023-03, ACH wire transactions for March 2023, and receive the monthly financial statements.

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

8. Fiscal Year 2022/23 Budget Planning Workshop.

General Manager Muelrath highlighted the progress of the budget planning and requested that Directors reach out to Staff with any questions or feedback on the budget prior to the next board meeting.

9. Groundwater Protection from Gas and Oil Wells.

Shosana W. (General Public) leads the Contra Costa Anti-Drilling campaign and posed questions and comments to the Board regarding oil and gas drilling concerns in our area. Her main concern is the 300 plugged and abandoned wells in East County that can potentially come back online. General Manager Muelrath advised that he would reach out to LSCE, the District's Groundwater Engineer Firm, and report back with updated information regarding CEQA exemptions.

Director Kovalick shared concerns of some of the assumptions in the LSCE document and requested a list of recommendations to ensure our groundwater will not be contaminated.

President Tiernan mentioned that fracking has been linked to recent earthquakes in Oklahoma and the same could happen locally.

Director Seger shared concerns of attempts to get the City of Oakley to take a position on the oil and gas drilling and they have not. He reiterated the importance of the District's job to protect groundwater. He also asked if LSCE can develop flow models. General Manager Muelrath advised the District could have a conversation with LSCE about the ideas the Board is interested in.

General Counsel Miliband added support for the District to work on policy balancing a requirement for monitoring groundwater and CEQA notification without taking the vested property rights of the driller.

10. Levee Failure Protection.

The Board engaged in discussion on protection of the District's assets should a catastrophic event occur. General Manager Muelrath reminded the Board that the dry levees are in place for the purpose safe evacuation. He also added that the biggest exposure would be a localized breach, as FEMA would not cover this. He explained he is exploring options of special insurance or collecting funds to hold to put our system back into service. General Manager Muelrath asked the Board for policy direction on coverage options.

11. General Manager's Reports.

- Water Supply Charts.
- District Insurance Requirements.
- Recycled Water Next Steps.

General Manager Muelrath highlighted that our local well production hardness levels have improved. Vice President Pastor asked if increased snow melt improves groundwater, and Nacho Mendoza (Manager of Water Operations) advised that the water quality remains stable, but Delta quality does improve.

12. Engineer's Reports.

- Construction project updates.

Bill Brick, CDM Smith, reported on the status and progress of active projects, mentioning that more work from these projects is expected over the next month.

Director Kovalick asked why the District is not currently pumping Glen Park well. General Manager Muelrath said that there was a VFD failure and once it is repaired the well will come back online. By utilizing Stonecreek well, the District is not missing out on production.

13. General Counsel's Reports.

General Counsel Miliband reported on the ongoing status of AB460. The bill is very active, and the language remains broad for interim relief of users by the State Water Resources Control Board (SWRCB).

President Tiernan asked if the District could send in a letter of opposition. General Counsel Miliband said that is a Board decision to make and it was not too late to do so.

14. Directors' Reports.

- Representative verbal reports.
- Other items as needed.

Director Kovalick was unable to attend one of the City of Oakley meetings, but reviewed the agenda, and shared that there was a resolution to oppose the Taxpayer Protection and Government Accountability Act which would impose restrictions on our ability to charge for our services. He requested the District to research this and oppose it if needed. General Manager Muelrath advised that this is on next month's board meeting agenda. Director Kovalick also noted they held the first meeting on conditional use permits and most of the community was against it, and the District should see this as a lesson for moving forward with recycled water and keeping a pulse on public opinion.

President Seger attended the Contra Costa Water District board meeting. He reported that CCWD had a statewide policy update which included permits for operation of the Central Valley Project and State Water Project. They are current but will be renewed in 10 years and affect how they fill Los Vaqueros. They also discussed current litigation regarding Delta exports. He noted that CCWD's legal team is also reviewing the promises the state made regarding the Delta Conveyance Project so there would be no interruption to water delivery.

Vice President Pastor reported out for the Recycled Water Ad Hoc. He noted that this is not an engineering project but more of a community outreach project and the next steps would be public outreach. The project is currently on a 10-year timeline; however, they are hoping to shorten that timeline. He emphasized the importance of trust from our community and that the outreach would be extended to people within our community.

General Muelrath touched on the federal earmark funds for this project and informed the Board that they are waiting to submit the scope of work until they receive the result of the submitted cost-share waiver. The committee is exploring options such as a public information trailer or demonstration pilot facility.

Director Kovalick would like to drill into the public perception of water quality and referenced recent social media comments on water quality concerns. General Manager Muelrath informed the Board that when water quality improves, people notice a difference and we have sent a technician out to all concerns that have been reported. He said that the 23/24 budget includes room for the public opinion survey and we could get into more detail through that.

15. Future Agenda Items.

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

General Manager Muelrath reported we are still pending dates on a presentation from BIMID.

16. Next Meetings of the Board of Directors.

- May 24, 2023 Regular Meeting – 6:30 pm
- June 14, 2023 Special Meeting – 6:30 pm
- ~~June 28, 2023 Regular Meeting – 6:30 pm (cancelled)~~
- July 26, 2023 Regular Meeting – 6:30 pm

Board Secretary Knight commented that there was a typo on the agenda, and the June 14th Special Meeting would be held at 3:00 pm.

Closed Session

17. **Closed Session - Conference with Real Property Negotiations (§ 54956.8)**
Property Description: Water rights irrigating lands under License 1510 issued by the California State Water Resources Control Board for Jersey Island
Negotiation: Diablo Water District General Manager Dan Muelrath and Reclamation District 830 Representative (to be determined)
Under Negotiation: Terms and Price

No reportable action.

Open Session

18. **Adjournment.**

The meeting was adjourned the meeting at 9:13 p.m.



Kait Knight, Board Secretary