



MINUTES OF THE REGULAR MEETING
OF THE BOARD OF DIRECTORS OF
DIABLO WATER DISTRICT
HELD ON MAY 24, 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 May 24, 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 6:30 p.m. on May 24, 2023.

Directors Present: Tiernan, Pastor, Seger, Kovalick, Shaw
Staff Present: Dan Muelrath, Kait Knight, Nacho Mendoza, Wayne Weaver
General Counsel: Wes Miliband (AARLL)
District Engineer: Bill Brick (CDM Smith)
Others Present: Eddy Teasdale (LSCE), 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 April 26, 2023.

Staff Recommendation: Approve.

Director Seger asked for an amendment to the minutes to remove the word “solar” in reference to his request for energy usage from CCWD.

It was moved by Director Seger, seconded by Director Kovalick, and approved by the following vote to approve the Consent Calendar with Director Seger’s ammendment.

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

4. District 70th Anniversary Resolution.

President Tiernan requested a grammatical edit to the resolution.

It was moved by Director Kovalick, seconded by Vice President Pastor, and approved by the following vote to adopt the District’s 70th Anniversary Resolution.

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

5. Repeal Drought Declaration.

Staff Recommendation: Adopt Resolution No. 2023-08 repealing the current drought declaration.

President Tiernan asked Staff to make it clear to the customer what the District was recouping for the drought surcharge. General Manager Muelrath advised that this was being done through a message on the bill.

Director Kovalick requested that Staff advertise when this drought surcharge is removed and would like 30 days’ notice given.

It was moved by Director Kovalick, seconded by Director Shaw, and approved by the following vote to adopt Resolution No. 2023-08 repealing the current drought declaration.

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

6. Corporation Yard Ad Hoc Committee.

Staff Recommendation: Appoint an additional director to the Corporation Yard ad hoc committee.

General Manager Muelrath advised that there would be about two to four meetings expected over the next year.

Vice President Pastor volunteered to join the Corporation Yard ad hoc committee.

It was moved by Director Seger, seconded by Director Shaw, and approved by the following vote to appoint Vice President Pastor to the Corporation Yard ad hoc committee.

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

7. Authorization to Mail Prop 218 for the District's Well Systems.

Staff Recommendation: Authorize mailing of Prop 218 notifications for the proposed rate increase to the District's Well Systems.

Director Kovalick asked if M27 was asking to be consolidated and if we could shorten the time frame. He also asked if the consolidation would be funded by the State of California and inquired about the safety of the water to drink.

General Manager Muelrath advised that Delta Mutual (in addition to M27) was one of the four mutuals in the feasibility phase of potential consolidation and that the District is trying to have it be 100% grant funded.

Kait Knight, Board Secretary that the arsenic exceedance levels have held steady. She also mentioned that the County Health Department is looped in on all consolidation updates.

Bill Brick, CDM Smith (District Engineer), updated that the draft study would be circulated for staff review in August.

It was moved by Vice President Pastor, seconded by Director Kovalick, and approved by the following vote to authorize mailing of Prop 218 notifications for the proposed rate increase to the District's Well Systems.

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

8. Financial Reports.

Staff Recommendation: Approve warrant register 2023-04, ACH wire transactions for April 2023, and receive the monthly financial statements.

It was moved by Director Seger, seconded by Vice President Pastor, and approved by the following vote to approve warrant register 2023-04, ACH wire transactions for April 2023, and receive the monthly financial statements.

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

9. Groundwater Protection from Gas and Oil Wells.

Eddy Teasdale, Principal Hydrogeologist LSCE, provided information to follow up on a request from the Board at the April 26, 2023 Regular Meeting.

Director Kovalick shared concerns regarding injection of wastewater, well casing protections, and the frequency of testing on the well casings. He also wanted to know what was being done to protect groundwater from contamination from production and injection wells. He shared an additional concern about seismicity and if well injection would change the geology of the ground.

Eddy Teasdale answered that there isn't allowance for the drilling of new injection wells in California anymore. He said that the EPA requires yearly testing on disposal wells, but pressure tests for casings are only required every five years. There are a lot of seals and safety measures in place for the casings on the wells that prevent them from failing. As far as contamination is concerned, he advised that injection wells go down 4,000 to 5,000 feet, where groundwater aquifers are at 1,000 feet or less. For seismicity, California has a controlled and limited rate of injection to prevent fracturing.

General Counsel Miliband also shared that wastewater is treated and sold to be used for irrigation of crops.

President Tiernan wants the District to be conservative on what we allow in what we have control over.

General Manager Muelrath advised the Board that the plan to move forward would be to generate a policy or regulation, or amend existing policies, with the Board's position on this topic.

Director Seger shared that he was aware of abandoned wells in the Oakley area. Eddy Teasdale reported that LSCE can provide a map of new, abandoned, and idle wells to the Board, and noted that there could also be orphaned wells.

General Manager Muelrath inquired about the process a developer would take if they came across an orphaned well and that this could be added to the District's FIA. General Counsel Miliband added that the policy or regulation can specify to call CalGem and require compliance and a reminder of the responsibility of the developer should they come across an orphaned well.

General Manager Muelrath asked if LSCE has seen new and innovative drilling technologies. Eddy Teasdale said that directional drilling is common.

General Manager Muelrath advised he would bring back ideas to the July board meeting.

10. General Manager's Reports.

- Water Supply Charts.
- FY 2023/24 Draft Budget Progress.
- Levee breach recovery costs and engineering expert.
- Policy Positions to the Board in July:
 - Water Rights Bills.
 - California Business Roundtable (CBRT) 2024 ballot measure.

General Manager Muelrath highlighted that CCWD would possibly be filling Los Vaqueros through June due to the amount of freshwater in the Delta. He also talked about the budget document that would be distributed to the Board prior to the June special meeting for grammatical edits, and that CCWD provided a RBWTP Budget update for FY 23/24 today that showed \$120k increase from the draft received in March. He advised that District Engineer's will present levee breach recovery costs at the special meeting in June.

11. Engineer's Reports.

- Construction project updates.

General Manager Muelrath reminded the Board when the 24" pipeline breaks ground, Staff will invite them out to view it. Director Kovalick inquired if this was an area where purple pipe would be installed, and General Manager Muelrath said this is not where it would run due to lack of potential irrigatable landscaping.

Bill Brick, CDM Smith, reported that the Brownstone project would be the first project to incorporate and install a groundwater monitoring well per the Board's adopted regulation updates in 2021.

12. General Counsel's Reports.

General Counsel Miliband reported on the ongoing status of AB460. The bill is still very active, and ACWA is opposing unless amended, although, there are no proposed amendments drafted yet. He also reported on SB389 that would require proof of claim of water rights. There is good consensus between ACWA and CMUA on this bill. He will bring back other bills of interest to the Board at the July meeting.

13. 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 the housing plan was discussed and there was a map of potential building sites in Oakley. General Manager Muelrath reported that District engineers look at land use and zoning when determining future potential connections and would use updated map in the next update of District documents.

President Seger attended the Contra Costa Water District board meetings. He reported that CCWD had voted for Vice President Martinez to run for the LAFCO alternate seat at the first meeting on May 3, 2023. At the second meeting, they discussed the second round of negotiations for the Los Vaqueros Expansion project, and that CCWD was making sure that their rights were protected and priority over the other partners. They will continue to own and manage the watershed and are adding 115k acre feet. They intend to allocate water rights through an agreement with their partners.

General Manager Muelrath reported out that the grant application for the Groundwater Sustainability Plan was not funded and that they will request the scoring matrix from the State to evaluate for future grant applications. He did note that most funds went to Severely Disadvantaged Communities and that was not listed in the original Notice of Funding Opportunity.

Director Shaw reported on the East County Water Managers Association Meeting. He said that Dawn Morrow, ISD, was voted in as chair and County Supervisor Diane Burgis was voted in as Vice Chair. Amendment 2 was almost complete and is pending a few more signatures. The group discussed FEMA grants and City of Antioch provided an update on their desalination plant that is anticipated to come online next Spring. He also mentioned the group would like to invite PG&E to their next meeting.

Director Kovalick updated the Board on the ACWA conference. Overall, the conference was a great opportunity to network, and he had the opportunity to speak to people about recycled water. He mentioned that there are a lot of differing opinions on the topic. He also said that the tunnel project was a hot topic and people are on both sides of the issue. ACWA is opposing federal legislation that would have killed the project as they want water agencies to agree without federal intervention.

14. Future Agenda Items.

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

General Manager Muelrath highlighted that AB 50 is still moving forward and staff would move forward a letter of support at the next Board meeting.

15. Next Meetings of the Board of Directors.

- June 14, 2023 Special Meeting – 3:00 pm
- ~~June 28, 2023 Regular Meeting – 6:30 pm (cancelled)~~
- July 26, 2023 Regular Meeting – 6:30 pm

Closed Session

16. **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

17. **Adjournment.**

Director Tiernan adjourned the meeting at 9:00 p.m.



Kait Knight, Board Secretary