



TOWN OF DISCOVERY BAY CSD

A COMMUNITY SERVICES DISTRICT

President - Kevin Graves • Director - Brian Dawson • Director - Mark Simon • Director - Chris Steele • Director - Ray Tetreault

MINUTES OF THE SPECIAL MEETING
OF THE BOARD OF DIRECTORS OF THE
TOWN OF DISCOVERY BAY CSD
Wednesday October 5, 2011
1800 Willow Lake Road, Discovery Bay, California
Website address: www.todb.ca.gov

SPECIAL MEETING AT 6:00 P.M.

A. ROLL CALL

The meeting was called to order at 6:00 p.m. Roll call was taken and all Directors were present.

B. PUBLIC COMMENT

None

C. OPEN SESSION DISCLOSURE OF CLOSED SESSION AGENDA

(Government Code Section 54957.7)

Legal Counsel Schroeder – Brought the meeting into Closed Session regarding action item D-1, which involves two (2) cases – Two (2) Demands to Cure under Government Code Section 54960.1 - one (1) – Letter dated September 5, 2011 – Water Rate Increase Procedures – two (2) – Letter dated September 15, 2011 – Email regarding Director's Medical Coverage issues.

Resident William Richardson – Stated that he would like to be present during item F.

President Graves - Stated that someone will go to the door and announce that the Closed Session is returning into Open Session.

D. CLOSED SESSION:

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant Exposure to litigation pursuant to subdivision (b) of Section 54956.9 of Government Code (two potential cases)

E. RETURN TO OPEN SESSION: REPORT ON CLOSED SESSION

(Government Code Section 54957.1)

President Graves – Stated that at this time we are returning into Open Session.

Legal Counsel Schroeder – The Board has reconvened from Closed Session regarding action item D-1. All five (5) Board Members were present during the duration of the Closed Session. By unanimous direction by the Board to Counsel to respond as follows – The Demand to Cure dated September 5, 2011 – Denied, for the same basis of the denial of the July 28, 2011 Demand to Cure. The Email dated September 15, 2011 – Alleging violations that occurred back in 2010 - Denied.

General Manager Howard – Stated that for the record – At the request of residents that wanted to be present for Item E, the General Manager and a Board Member made three (3) different attempts, by going outside, to seek public input. Those attempts were unsuccessful.

F. DISCUSSION AND POSSIBLE ACTION REGARDING PROCEDURE TO RESPOND TO DEMANDS TO CURE

President Graves – Introduced item F.

Legal Counsel Schroeder – Stated that there have been several Demands to Cure and the General Manager has asked Counsel to review the options on how to handle the Demands to Cure. The Government Code Section 54960.1, if there is a violation of five (5) different sections of the Brown Act that a party can make a written Demand to Cure, which the Board is required to respond in thirty (30) days. If you fail to respond within thirty (30) days, it is deemed rejected.

The procedure the Board has been following is to convene into a Closed Session in order to address the matters. The other way to handle the Demand to Cure is to give to the Attorney to review the Demand to determine if there is a violation, if there is no violation, there is a response sent out along with copies of the Demand which is then given to the Elected Officials so they are aware of the Demand. If the Board believes that the response is in error, and then the Board would have the ability to, by following the procedure, add to the Agenda.

President Graves – Stated that for the record no one has returned for item F, as a result there are no comments from the Public.

Motion made – by Director Tetreault to change the policy and adopt the policy that is more common with most municipalities and that the Demands to Cure be coordinated through Legal Counsel to determine if there is a violation, seconded by Director Simon.

Legal Counsel Schroeder – Stated for clarification that if Counsel determines that there is no basis for the Demand to Cure, that he or she is authorized to respond with a letter declining the Demand.

Motion made – by Director Tetreault the above clarification from Legal Counsel Schroeder and seconded by Director Simon.

The discussion continued between Legal Counsel and the President in regards to the Demand to Cure newly adopted policy.

Motion carried by the following vote: AYES: 5, NOES: 0.

G. ADJOURNMENT

Motion made – by Vice-President Dawson to adjourn the Special meeting and seconded by Director Simon. Motion carried by the following vote: AYES: 5, NOES: 0

The meeting was adjourned at 6:30 p.m. to the regular meeting on October 5, 2011 at 1800 Willow Lake Rd – Located in back of Delta Community Presbyterian Church.

For the Audio of this meeting please visit our Website at
<http://www.todb.ca.gov/content/2011-agendas-and-minutes/>

//cmc – 10.13.11