



# TOWN OF DISCOVERY BAY CSD

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## Board Members

President-Ray Tetreault	raytetreault@comcast.net
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Director-David Piepho	dp1800todb@sbcglobal.net
Director-Brian Dawson	Dawson.j.brian@gmail.com
Director-Kevin Graves	jkgraves@comcast.net

**MINUTES OF THE REGULAR MEETING  
OF THE BOARD OF DIRECTORS OF THE  
TOWN OF DISCOVERY BAY CSD**  
Wednesday, December 16, 2009  
1800 Willow Lake Road, Discovery Bay, California  
Website address: [www.townofdiscoverybay.org](http://www.townofdiscoverybay.org)

## REGULAR MEETING at 7:00p.m.

### A. ROLL CALL

1. President Tetreault called the meeting to order at 7:00p.m.
2. President Tetreault led in the Pledge of Allegiance. Roll call reflected that all directors were present.
3. Legal Counsel John Stovall reported on the Closed Session. He reported that no reportable action was taken.
4. Maria Garcia, a notary, administered the "Oath of Office" for the two (2) new District Directors, Kevin Graves and Brian Dawson.
5. General Manager Koehne introduced Fairin Perez as the District's new Landscape Manager.

### B. PUBLIC COMMENTS (Public Comments will be limited to a 3-minute time limit)

No Public Comments.

### C. CONSENT CALENDAR

Director Piepho motioned to approve the Consent Calendar. Vice-President Simon 2<sup>nd</sup> the motion. The motion passed. (5 ayes, 0 nos, 0 abstain)

### D. CHAIR REPORT

President Tetreault welcomed the two (2) new directors. He stated that he was happy to have a full board again so they could get down to work. He also wished everyone a Happy Holiday Season.

### E. DIRECTORS' COMMENTS

Director Piepho reported that he had attended the County's Annual Training for the advisory body on December 7, 2009. He turned in the report and power point presentation from that training. He wished everyone a Safe and Happy Holiday. He also welcomed the new directors.

Vice-President Simon welcomed the new directors and wished everyone a Happy Holiday. He stated he was going to ask under future agenda items that any of the large users be able to come in and voice their concerns to the board about the program.

Director Dawson wished everyone a Happy Holiday.

Director Graves stated he was looking forward to being of service to the CSD and that they can accomplish great things in the New Year. He wished everyone a Merry Christmas, Happy Holiday and Happy New Year.

**F. REQUEST FOR BOARD CONSIDERATION**

General Manager Koehne asked that items 4 and 5 be moved up behind item 1.

Director Piepho motioned that item 5 be postponed to the first meeting in January 2010. Director Dawson 2<sup>nd</sup> the motion. Vice-President Simon asked that this definitely be put on the first meeting in January 2010 so it does not fall through the cracks. Jeff Dawson, of Reclamation District 800, commented that he had received an email that FEMA had passed our levees and that opens up the discussion for what can be put on the landscape areas of the levees. He invited the new Landscape Manager to come and talk with them about it before the next meeting. President Tetreault asked that when this item is brought back to the board that there is a description with each project and possibly even photos of the areas. The motion passed. (5 ayes, 0 nos, 0 abstain)

**1. Presentation, Comment and Possible Action on District's Trial Wetland's Project (Koehne)**

General Manager Koehne presented Professor Alex Horne from the University of California at Berkeley. Professor Horne explained how they have put together the Wetlands to help meet the standards of the Regional Board. Professor Horne reported that the Wetlands had been successful in the work that had been done to this point. He reported that the copper levels had been lowered way down. He reported that the nitrate levels have also been reduced. He reported that they are also working on aluminum and pharmaceuticals. He stated that the Town could go to a full sized Wetlands at this time, but that they are still working on the aluminum, pharmaceuticals, and sodium. He stated that the Regional Board has relaxed some of their requirements on the Town because of the Wetlands Trial and that he feels the Town should continue with the trials to get more information on the other items before going to a full sized Wetlands. He also stated that there are some more grants available to work on this project. General Manager Koehne commented that he feels the Regional Board will soon be attaching the requirement to keep aluminum levels down and that they may possibly add mercury to the requirements. Gregory Harris, of HERWIT Engineering the District's engineers, explained that when the district started this Wetlands Trial they were a year away from renewing their permit with the state and they were paying fines also at that time. He explained that the board decided to try the Wetlands as an economical solution to the requirements that the State had imposed and would be trying to impose on the new permit. There was further discussion about the process of the Wetlands and things that they would like to continue researching. Director Piepho asked to clarify that the Professor wants the District to continue the trial project before going to a full size project. Professor Horne replied that he would like to see the trial continue and that the Regional Board would be happy to see them try to remove more things, such as the aluminum. Director Piepho commented that he thinks that this continuation would be a small amount of time to expend for the long range results. He also asked if Professor Horne had published any of this information and that this might look good for him and the District to do that and to share this information with the community. Professor Horne commented that the research has just been completed so they have not had time to publish anything and that he would need the District's permission to do so. Director Piepho asked Gregory Harris about the copper levels imposed by the Regional Board and how they were calculated, also if it was true that the District should not have been fined in the first place. Gregory Harris replied that they had argued with the Regional Board and proved that the Regional Board's calculations of copper were incorrect and that the District should not have been fined, but that the State had reduced their requirements since. Vice-President Simon asked the Professor about the possibility of grant money and how does the District know what they would qualify for. Professor Horne responded that the money would go to the University and help with the costs of the trial, such as chemical analysis and the graduate students that come out to work on the project. An audience member asked if changing from the sodium chloride water softeners to the potassium chloride water softeners would help the problem. Professor Horne replied that would not help much, it would just swap one problem for another. An audience member asked if this trial will be concentrating on the sodium problem. Professor Horne replied that they would be working on the Wetlands to process the sodium naturally instead of a mechanical process.

**2. Discuss and Approve HERWIT Engineering Contract as the District's Engineer for year 2010 (Koehne)** General Manager Koehne explained that this would be an extension of the contract for one year. General Manager Koehne commented that the cost is the same. President Tetreault commented

that he has been very satisfied with their service. Vice-President Simon motioned to approve HERWIT Engineering's contract for the year 2010. Director Piepho 2<sup>nd</sup> the motion. The motion passed. (5 ayes, 0 nos, 0 abstain)

3. **Discuss and Direction on Issue of Directors Stipends (Tetreault)** President Tetreault turned this item over to Legal Counsel John Stovall. Legal Counsel reported that he had been directed by the board to review, analyze and report on letters submitted to the board by Mr. Bob Mankin. He stated that there were two (2) issues in the letter; one was if membership of the Sheriff's Municipal Advisory Committee (SMAC) and of the Board of Directors of the Town of Discovery Bay constituted a violation of the prohibition against holding incompatible offices. He stated that the second document is a separate memorandum about that issue and that his conclusion is that it is not a violation of that prohibition because membership on the SMAC is not a public office and the doctrine only applies when both positions are public offices. He stated the other issue in Mr. Mankin's letter specifically addressed attendance of the SMAC and it questioned if people should be paid for attending that meeting. He further explained that there are two (2) types of payments being discussed; one is for expenses and the other is the stipend or one hundred dollars (\$100.00) per meeting. He stated that when he looked at that letter it raised the question of what meetings the directors were attending, what they were being paid for and were those payments proper. He stated that he had reviewed summaries of all payments made to all directors since January 1, 2006, that 2006 was when Government Code 61047 went into effect. He stated this code defined a day of service for which a director could receive a stipend. He stated that he had found that directors were mistakenly paid for meetings for which pursuant to the change in definition of day of service they should not have been paid. He stated that he did not find any months that any director received more than the six hundred dollars allowed by law and did not find any meetings that were not associated with valid business of the town. He stated that he found that the mistake in overpayments were made because of the complexity of the issue, the press of other business, the internal accounting procedures and internal payment procedures which were not updated in accordance with the change in the law. He stated that he finds that President Ray Tetreault owes the district one thousand nine hundred dollars (\$1,900.00), Vice-president Mark Simon owes the district zero, and former Director Shannon Murphy-Teixeira and Dave Dove do not owe any money. Former Director Doran only turned in for Town board meetings. Director Piepho owes six thousand five hundred sixty three dollars and twenty one cents (\$6,563.21) to the District which he understands has already been paid back to the District. He stated former Director Patty Knight owes five hundred two dollars and forty eight cents (\$502.48). He asked the board to enact Resolution 2009-12 concerning reimbursements and expenses. He also requested the board authorize him to draft a potential change to the legislation and seek a local assemblyperson or State Senator to carry that bill because it is illogical to have public agencies other than CSD's subject to AB1234, whereas CSD's are subject to this very draconian description which has only five (5) types of meetings. He suggested that the board adopt a resolution to charge a fee for any meetings attended as an advisory function. He also suggests that after the Committee listing is reviewed by the board at the first meeting of 2010 that he sits down with staff and each director to review the meetings to determine if it is the type of meeting which a stipend and/or expenses may be paid in the future. Legal Counsel stated that he had gone through his charges since July 2009 on this issue and had found that the charges had been twelve to fourteen thousand dollars. He stated that because the Town is a very valued client he offered to give the Town a credit of one thousand dollars per month each month of 2010. President Tetreault commented that Director Piepho had tendered a check to the Town for his overpayments of stipends and that he had given the District a check for six hundred dollars and would not be taking his payment of his current quarter to pay his overpayment in full. He also stated that he had attended many meetings and they were all for the District. Director Piepho commented that they had contacted a Senator to carry the bill and that they had also contacted the person who had enacted the original law and that he did not realize the entirety of what has transpired. Director Piepho motioned to authorize the recommendations contained in the report. Vice-President Mark Simon 2<sup>nd</sup> the motion. An audience member commented that the board and audience had not had a chance to go through the recommendations. President Tetreault commented that these had been gone over in Closed Session. An audience member asked for clarification of the fee for advisory functions. Legal Counsel responded this would be a source of funds for reimbursement. The audience member commented that this issue had

started in the beginning of the year. An audience member commented that he had brought up this issue originally because of the P-Funds and that he was satisfied with the results. The motion passed. (5 ayes, 0 nos, 0 abstain)

4. **Discuss and Approve Notice of Exemption (CEQA) for Willow Lake Landscaping Improvements and Discuss and Approve Lowest Responsive Bidders for Willow Lake Landscaping Improvements Project (Koehne)** General Manager Koehne presented this item to the board. He commented that the bids that had been received did not have any deadline on them, so they could still be considered. President Tetreault commented that he did not want to do the corner of Willow Lake and Discovery Bay Boulevard, but that he would be willing to look at the bids that had the two (2) projects separate and do just Willow Lake Road itself. General Manager Koehne responded that staff had sent out letters telling the previous bidders that the bids had been denied by the board and so those bids could no longer be used. Legal Counsel advised against trying to open the previous bids. Director Piepho commented that this item had been voted down, but that he would like to see this brought back to the board in the future. Director Graves asked about whether it would be a cost savings to do both phases together or not. Director Piepho made a motion to bring this item back at a future meeting with bids that are broken down into Phase 1 and Phase 2. There was discussion about what the difference is between the phases of this project. Director Piepho motioned to not approve the Notice of Exemption and not approve the lowest responsive bids and direct General Manager Koehne to come back with first a possible action of revising the Landscape Improvement Project list and then after that has been looked at by the board they will give him further direction as to a re-bid. Director Graves 2<sup>nd</sup> the motion. The motion passed. (5 ayes, 0 nos, 0 abstain)
5. **Discuss and Possible Action on Revising List of Landscape Improvement Projects (Koehne)** Postponed.
6. **Discuss and Possible Action to Approve Purchase of a Public Address System for District Office (Koehne)** General Manager Koehne presented this item to the board. Director Graves motioned to accept the lowest bid. Director Piepho 2<sup>nd</sup> the motion. The motion passed. (5 ayes, 0 nos, 0 abstain)
7. **Discuss and Possible Action to Approve Purchase of a New Copier Machine (Koehne)** General Manager Koehne presented this item to the board. He explained that the district copier was unable to be repaired and staff had prepared a quote for the cost of a new machine. He stated that the Ricoh copier was the lowest bidder of the comparable copiers. Director Piepho motioned to approve the purchase of the MPC5000 not to exceed \$10,500.00. Director Graves 2<sup>nd</sup> the motion. Vice-President Simon asked for information about the maintenance costs on a machine if purchased versus the cost of a lease which would include a maintenance contract. There was discussion about leasing versus purchasing. Director Piepho withdrew his motion and asked that staff bring this back with the information of leasing and maintenance. Director Graves withdrew his 2<sup>nd</sup>.
8. **Discuss and Adopt Resolution 2009-12, on District Policy for Reimbursement of Expenses and Travel of Officials and Employees and for Board Member Compensation (Stovall)** Legal Counsel John Stovall presented this item to the board and explained that this policy is the one he had referred to in a previous item. He stated that the one that is in the agenda packet is version three (3) and that there is a version five (5), which he had presented to the board at a previous meeting. Vice-President Simon motioned to approve and adopt Resolution 2009-12 on District Policy for Reimbursement of Expenses and Travel of Officials and Employees and for Board Member Compensation. Director Piepho 2<sup>nd</sup> the motion. Director Piepho commented about the boards advisory functions and if staff has run this by County Counsel. Legal Counsel responded that this does not apply to the Resolution. Director Piepho asked that County be added to item A and under Authorizing Expenses item 1. Legal Counsel responded that it could be added. Director Piepho commented that for clarification that after going to any of the meetings they shall submit a written report. Legal Counsel responded that he had written this policy to require a written report which is a little tougher than the actual ruling. Vice-President Simon amended his motion to include the addition of the word County in the attachment as indicated. Director Piepho amended his 2<sup>nd</sup>. An audience member asked for another amendment to the Resolution on page three, item C, Compensation for Attendance at Meetings. He commented about the definition of a Day of Service with regards to the practice of the board listing Special Meetings separate to be able to take payment for both meetings. He commented that if the meeting is at a different time of day or place it

could be taken as a separate meeting but if you have them back to back he asked that the board call that one meeting. Another audience member commented that stipends are optional. Director Piepho asked for clarification if two (2) directors were to attend a meeting and only one needs to submit a written report. He asked how it should be decided who would submit the report. There was discussion about this but no change in the Resolution. The motion passed. (5 ayes, 0 nos, 0 abstain)

9. **Discuss and Possible Action to Support Local Boy Scouts on Their Christmas Tree Recycle Program Koehne)** General Manager Koehne presented this item to the board. He explained that in the past the Town had allowed the Boy Scouts to put the recycled Christmas Trees at Plant 1, then staff mulches them and puts the mulch in the landscaping to reduce the acidity in the ground. President Tetreault commented that he did not want to have the trees left for an indefinite period of time because they have been reprimanded by the Regional Board for the trees being a mess at the sight. General Manager Koehne suggested that the trees be mulched by March. Vice-President Simon made a motion of action to Support Local Boy Scouts on their Christmas Tree Recycle Program and that the trees will be mulched by March 31<sup>st</sup>. Director Dawson 2<sup>nd</sup> the motion. An audience member commented about the fire hazard. The board responded that they are kept at the Plant 1 and that if mulched by March 31<sup>st</sup> the weather should keep them moist enough until then. The motion passed. (5 ayes, 0 nos, 0 abstain)

#### **G. GENERAL MANAGER REPORT**

1. **Veolia Monthly Report (November )** General Manager Koehne commented that the monthly report was in the board packet. He reported that staff has installed the new security door locks. He reported that there have been a few water leaks, nothing major. He reported that staff had gone to court regarding the stolen water meters. He reported that the Vac-Truck Dump Station is approximately ninety percent (90%) complete. He reported that Lift Station "R" had to have a pump taken in for repair. He reported that one of the export pumps at Plant 2 is in for repair. He reported there had been two (2) auto accidents; one damaged landscaping and one damaged a sound wall. He reported that phase two (2) for the Well 6 bids are due next Wednesday. He reported that there had been staff changes; the new Landscape Manager and one employee is leaving and the minutes taker will not be taking minutes after about a month. Vice-President Simon asked about the street signs. General Manager Koehne responded that the replacements were done. Director Graves asked about a part of the Veolia Report that stated that there had been a lot of call-outs in the middle of the night; and was this an overtime cost to the District? General Manager Koehne responded that this was included in their contract. President Tetreault commented that they are also working on the SCADA System to reduce these call-outs. President Tetreault commented that the new Directors would be taken on a tour of the District facilities by General Manager Koehne.

#### **H. LEGAL COUNSEL REPORT**

Legal Counsel Stovall commented that he will be on vacation and Legal Counsel Dan Schroeder will be attending the next meeting.

#### **I. CORRESPONDENCE – (Possible Action or Discussion)**

1. R – Hwy 4 Bypass Meeting Minutes of August 13, 2009, September 10, 2009 & November 12, 2009
2. S – Letter to US Bureau of Reclamation re: 2-Gates Project – November 16, 2009
3. R – Letter from County to US Bureau of Reclamation re: 2-Gates Project – November 30, 2009
4. S – Letter of Response to State Water Resources Control Board – 10-13-09 N.O.V. – November 18, 2009

Director Piepho commented on item 2, he stated that it was a good letter and sent out in a timely manner but that it had not been carbon copied to the Bay Delta Group, Dave Dove's group, or the County.

#### **J. FUTURE AGENDA ITEMS**

Director Piepho asked for an agenda item about the agenda. He would like to go over what goes on the agenda, such as listing public requests, if they were approved or denied and the time and expense of those. Legal Counsel added that on that agenda item they may want to consider the issue of Special Meetings and when they are held.