



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@sbeglobal.net

**MINUTES OF THE
BOARD OF DIRECTORS OF THE
TOWN OF DISCOVERY BAY CSD**
Wednesday, November 4, 2009
1800 Willow Lake Road, Discovery Bay, California
Website address: www.townofdiscoverybay.org

REGULAR MEETING at 7:00p.m.

A. ROLL CALL

President Tetreault called the regular meeting to order at 7:02 p.m. He then led in the Pledge of Allegiance. General Manager Koehne called roll. All directors were present.

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

Don Flint asked about the items on the Closed Session and if it had been reported. Legal Counsel explained the procedure that had been taken in the Closed Session and that there had been a report at the end stating that there had been no reportable action taken. Mr. Flint also commented that he had hoped that in the Closed Session it would have been discussed that there is potential conflict regarding the voting process because of the relationship between Director Piepho and Supervisor Piepho and that she should reclude herself before any voting occurs. Roger Di Fate commented that he would like the board to write a letter and strongly get behind the opposition of the Two-Gates Project. President Tetreault stated that this would be discussed under agenda item #F2.

C. AREA AGENCIES REPORTS / PRESENTATION

- 1. DEPUTY SHERIFF / MARINE PATROL REPORT** Lt. Burton passed out the monthly report and then went over it. An audience member asked about thefts on the waterways. Lt. Burton responded that the Marine Patrol has been doing a lot of work in abatement and they are actively patrolling. Mrs. Richardson asked if the burglary on Seal Way was a break in or unlocked door. Lt. Burton responded that they could find no signs of forced entry, meaning it was probably an unlocked door. Vice-President Simon asked about the drug bust on South Point. Lt. Burton responded it was a resident that was found in possession of meth-amphetamine. Director Piepho commented about the success of the substation. Lt. Burton commented that he had received multiple calls about concerns of public safety at this meeting. He asked that everyone remain professional and courteous to each others concerns and opinions.
- 2. CHP REPORT** Officer Godman reported that their staffing is increasing, some are new officers and one is an officer that is back from an injury. He reported that they had written 88 citations last month, and that 75 percent of those were for primary collision factors; primarily speed, and then lane changing, following to close, those sort of things. He stated that there had been 2 DUI arrests. An audience member asked about headlights having to be on in the Safety Corridor on Vasco Road. Officer Godman

- responded that it may not be enforced by all officers during the broad daylight but if there is a sign it should be followed or you can be ticketed. There was discussion about whether your headlights need to be on or just your safety lights.
3. **FIRE DISTRICT REPORT** Battalion Chief Burris reported that Station 58 ran 20 medicals, 1 vegetation fire, 3 auto accidents, 2 commercial and residential fire alarms, 1 flooding condition and 3 structure fires. He reported that Station 59 ran 15 medicals, 3 hazardous conditions, 2 vegetation fires, 6 auto accidents, 2 alarms calls, 1 flooding condition, 3 structure fires and 3 move ups. He commented that he would be making a presentation at the next meeting of the wharf hydrant, which is being used at Bethel Island. He asked that the board send a written request to Chief Henderson on his position on the 2-Gate project. He commented that Chief Henderson would also make a presentation about the new governance of the Fire Department.
 4. **SUPERVISOR MARY PIEPHO, DISTRICT III REPORT** No one in attendance.

D. DISTRICT FINANCIAL REPORT

General Manager Koehne reported that the District has 1.4 million in the account less reserves and encumbrances. He stated that by the meeting in December the tax roll figures should be reflected.

E. CONSENT CALENDAR

Legal Counsel stated that in the minutes of the October 21, 2009 Special Meeting under Item B, four lines down he was referring to a letter that Mr. Mankin has passed in under Closed Session. He stated that he had probably said that but that it was not correct and that it had been passed in under Public Comment. He asked that the minutes have added in parenthesis that it should have been Public Comment. Director Piepho motioned to approve the Consent Calendar with the addition asked for by legal counsel. Vice-President Simon 2nd the motion. The motion passed. (3 ayes, 0 nos, and 0 abstain)

F. NEW BUSINESS FOR BOARD CONSIDERATION

President Tetreault pulled Items F5 & F8 from the agenda. He stated that these items had become much bigger than expected and that they would be presented to the board and public as soon as possible.

1. Interview Potential Candidates and Appoint 2 for Vacant Board Member Positions (Board)

President Tetreault stated that he would call each candidate up one at a time alphabetically and allow each to make a short statement, then the Board will ask them any questions they may have. He stated that after that the Board will make nominations and seconds and then the public would be able to ask questions. The candidates were Dominic Carano, Brian Dawson, Don Flint, Kevin Graves, Bud Kyle, Walter MacVittie and Mike McCleery. Rose Solberg was not present and Roger Di Fate withdrew. The Eight (8) candidates present all spoke and then were interviewed by the board. President Tetreault asked for clarification that they are to do nominations and seconds. Legal counsel responded that they were to do nominations but that according to Roberts Rules they did not require a second. Legal Counsel commented that this is the typical procedure, but that it is not specified in CSD Law, that each director nominates until there are no more nominations, going through once or twice until there are no more nominations. He stated then you move that the nominations be closed. He stated then you go through the nominees in the order nominated, voting on them aye or no. Vice-President Simon nominated Kevin Graves. Director Piepho nominated Brian Dawson. President Tetreault nominated Michael McCleery. Vice-President Simon motioned to close the voting. Director Piepho 2nd the motion. The motion passed. (3 ayes, 0 nos, 0 abstain) President Tetreault asked for all in favor of Mr. Graves. Director Piepho stated he had a procedural question. He stated that he would not be voting on any individuals, as individuals, he would vote on two (2) directors at the same time. There was discussion between legal counsel and the directors about how to vote on two (2) directors at one time and if they vote on one director at a time that that one director would become a board member if they were to agree on one and then dead lock on the others tonight. It was also discussed that if one person were voted on to the board that person would become a vote breaker. Legal counsel commented that it does not specify how the voting is to be done so if the board wished it could make a motion to vote on two nominees at a

time. President Tetreault proposed Kevin Graves and Michael McCleery to vote on. President Tetreault called for the vote on this combination. President Tetreault voted aye, Vice-President Simon voted aye, Director Piepho voted no. Director Piepho proposed Kevin Graves and Brian Dawson. President Tetreault called for the vote on this combination. Director Piepho voted aye, President Tetreault voted aye, Vice-President Simon voted no. There was discussion about whether to open the nominations again, taking a break or reschedule this. Director Piepho asked legal counsel for the timeline on this. Legal counsel read the timeline. Vice-President Simon asked if it would be possible to open the nominations. Legal counsel responded that the board could make a motion to reopen the nominations. Director Piepho made a motion that the board continue this item over to next Wednesday at 7:00 p.m. Vice-President Simon 2nd the motion. Jeff Barber commented that the board had not given any reason for picking one person over another and that the board should debate it. Vice-President Simon disagreed. Mrs. Richardson commented that she did not understand the process and that it seemed that the board did not know how the procedure worked. Director Piepho commented that this was a different situation since there were two directors to be picked and that it changes the dynamics of the board. Walter McVittie commented that this had been a sham and that it was inappropriate. An audience member commented that Roberts Rule would help with this. President Tetreault commented that the board needed to have three unanimous votes in order to elect anyone or even decide how to elect anyone. Judy Kier commented that the three should vote for one person and then vote for the next person, etc. It was responded that the three members of the board had to agree to do it that way. Don Flint commented that he thought that if you are appointing someone to be a director why not trust them to have a vote. Mark Doran asked if the board stays deadlocked where this goes next. It was responded that it would go the Board of Supervisors. Bob Mankin commented that he was impressed by the way the board is holding together. The motion passed. (3 ayes, 0 nos, 0 abstain)

2. **Discuss and Possible Action in Writing a Letter to Respond to the Two Gate Delta Project (Simon)**
Vice-President Simon asked that Dave Dove come to the podium and give an explanation about the issue of the Two Gates Delta Project and what the board is being asked to write a letter about. Dave Dove explained the Two Gates project and if the gates are really being put in to help the fish life or to help move water to the south of California. He spoke about the Finding of Negligible Impact (FONI) produced by the Bureau of Reclamation and that it states that nothing in Discovery Bay or close by will be impacted by the gates project. He commented about how the gates would slow the tidal flow and that the District might want to have our engineers look into this because of our effluent system in Old River. There was discussion about the difficulty the Two Gates would impose on travel by boat through the delta. He stated that they have a site called nodeltagates.com for more information and links and forms to help. He asked that the board write a letter to the Bureau of Reclamation commenting that this will in fact affect Discovery Bay and possibly our sewer system. There was discussion about what things can be done to slow the progress on the Two Gates project. President Tetreault commented that since this needs to be done by the 17th that the board write a letter and put it on the next special meeting as item number 2. Director Piepho made a motion that the board write a letter. Vice-President Simon 2nd the motion. General Manager Koehne commented that he would look into the diffuser issue and how the Two Gates project will affect it. He explained how the slower tidal flow could cause an impact on the diffuser system. Vice-President Simon stated he would write the letter. Roger Di Fate asked that everyone pay attention to this issue and write letters now before this project goes through. President Tetreault asked that the motion be amended to send the letter to both the Bureau of Reclamation and the Army Corp of Engineers. Director Piepho amended his motion. Vice-President Simon 2nd the amendment. An audience member asked if we have a legal authority to file an injunction to delay this process until the environmental impact reports are done more thoroughly. There was discussion about whether or not the district has the authority. Legal Counsel commented that if the project were to impact one of our functions; such as our discharge permit for wastewater or if it affected the groundwater we could have the authority. He stated also that it would depend on where they are in the process and this might only be the time for comment. Brian Dawson asked if the district could combine with other cities in the Delta. Director Piepho asked if Vice-President Simon would be the lead contact person for this project. He said he would. The motion passed. (3 ayes, 0 nos, 0 abstain)

3. **Discuss and Approve Notice of Exemption (CEQA) and Lowest Responsive Bidder for Construction of two Equipment Cover's located at Plant #2, not to exceed \$127,000 (Koehne)** General Manager Koehne presented this item to the board. Director Piepho motioned to approve the bid not to exceed \$127,000.00 for the two metal equipment covers. Vice-President Simon 2nd the motion. The board discussed the need for the covers. The motion failed. (0 ayes, 3 nos, 0 abstain)
4. **Discuss and Approve Notice of Exemption (CEQA) and Lowest Quote to Relocate one Existing 25-foot Light Pole at Plant #2, not to Exceed \$6,250 (Koehne)** Tabled
5. **Discuss and Possible Action on Revised Policy for Reimbursement of Expenses and Travel of Officials and Employees and for Board Member Compensation (Stovall)** Pulled
6. **Discuss and Possible Action to Cancel Future Board Meeting of December 02, 2009 (Tetreault)** President Tetreault presented this item to the board. Director Piepho motioned to cancel the December 2, 2009 meeting. Vice-President Simon 2nd the motion. The motion passed. (3 ayes, 0 nos, 0 abstain)
7. **Discuss and Approve Purchase of one Byron-Jackson Submersible Pump from Pump Repair Services for Well 6 not to Exceed \$152,000 (Koehne)** General Manager Koehne presented this item to the board. Legal Counsel asked General Manager Koehne if this is the only manufacturer that builds this pump, of this quality. General Manager Koehne responded yes. Director Piepho made a motion to approve the purchase of one Byron-Jackson Submersible pump from Pump Repair Services for Well 6 not to exceed \$152,000.00. Vice-President Simon 2nd the motion. The motion passed. (3 ayes, 0 nos, 0 abstain)
8. **Discussion and Direction on District Stipends (Tetreault)** Pulled

G. COMMITTEE/LIAISON REPORTS

1. **Trans-Plan Report** No report
2. **Code Enforcement Report** No report
3. **Special Districts Report**** No report

****These meetings are held Quarterly**

H. DIRECTOR'S COMMENTS

Vice-President Simon thanked the candidates that had applied for the positions on the board. He also commented that there is a small group in the town that has waged war on the board because of a vendetta against one board member and our county supervisor. He commented that those who are doing this should have taken the opportunity to run for the board, but did not and that they should take this issue away from this board. He commented that the staff is getting nothing done because they spend all their time answering records requests.

Director Piepho thanked Vice-President Simon for his comments. He thanked the applicants also. He commented that by taking another meeting to elect shows they are not eager to hand the vote off to the Board of Supervisors. He commented that he hoped that even those that are not elected continue to participate. President Tetreault commented that since he has been on the board for several years now and before that he does know the procedure for appointing a new director, but because of the fact that there are two (2) directors to be appointed it changes the dynamics of the process. He agreed with Director Simon and his comments also.

Jeff Barber responded to the comments by Vice-President Simon and the reason that he has not run for the board, because his son is ill and that comes first. He stated that he has not made that many public records requests and that he will continue to make his comments and requests because he feels that the board does not always function to the best of its ability. He stated that there are a lot of good candidates, with good skills and that he hopes that they will help move the board forward. Bill Richardson commented that his objective in the letters that he writes to the board are to get them to obey the law and that he lists in his letters why he feels they are not following the law. He stated that the board is in violation of the law by intimidating people to stop them from criticizing the board. He further explained his complaint about how the board handles Closed

Sessions. Brian Dawson commented that he agreed with the comments of Director Simon. Jennifer Finetti commented that she thought it might be helpful to actually show what kind of letters and volume of letters the district is getting in public records requests.

I. GENERAL MANAGER REPORT

General Manager Koehne reported that in September 2009 the district pumped 136 million gallons of groundwater compared to 138 million in 2008 and in October 2009 the district pumped out 101 million gallons of groundwater compared to 120 million in 2008. He stated that we are conserving some water. He reported that staff is reviewing a development plan that was submitted to the district for 72 homes over 20 acres and he will bring it back to the board in a future meeting. Director Piepho asked where that was located. General Manager Koehne responded that it was on Newport Drive and that it is currently zoned as Ag and they are asking to change it to a P-1 zone. He reported that during the wind storm there were about 3 or 4 trees that went over, one did some minor damage to a sound wall by knocking bricks over. He reported that staff is reviewing a Federal guideline called the Red Flag Rule. He explained that it has to do with identity theft and financial data and that he has legal staff analyzing that. He reported that tomorrow they would be testing all four (4) production wells for water quality, pump capacity and the aquifers. He reported that staff has started lead and copper testing that is required every three (3) years by sampling forty (40) homes. He reported that staff is in the process of getting some quotes for the basketball court at Regatta Park, to see the specifications; he will bring that back to the board. He reported that the Regional Board would like the reports submitted electronically, but at the Wastewater plant there are issues with the internet because they are too far away. He reported that they have wireless internet but there are issues with it and staff is working on that. Vice-President Simon asked about the status of the new street signs. General Manager Koehne responded that the county has gotten the material in and they should have them done in the next couple of weeks.

J. LEGAL COUNSEL REPORT

No report.

K. CORRESPONDENCE – Discussion and Possible Action

None

L. FUTURE AGENDA ITEMS

Wetlands Report – date = n/a General Manager Koehne commented that staff is working on this report and it looks like it will make the second meeting in December. One of the experts is in China and then he will be in Oklahoma.

Solar Rpt -- date = n/a General Manager Koehne commented that the Solar may not save money with the new UV System but he is still going to bring this back to the board.

County Rpt from CCC on Community Center Process -- date = n/a

Final Development Plan for "Newport Pointe" – November 18th

M. ADJOURNMENT

The meeting was adjourned at 10:07 p.m. to the next Regular meeting of November 18, 2009.

lh 11/11/09