

BOARD OF DIRECTORS MEETING

MINUTES

REGULAR MEETING

Thursday, May 16, 2019

1:30PM

(Paragraph numbers coincide with agenda item numbers)

1. CALL TO ORDER

The regular meeting of the Delta Conveyance Design and Construction Authority (DCA) Board of Directors was called to order in the Sacramento Public Library, Tsakopoulos Library Galleria, 828 I Street, Sacramento, CA 95814, at 1:30 p.m.

2. ROLL CALL

Board members in attendance were Tony Estremera, Stephen Arakawa (alternate for Richard Atwater), Steve Blois, and Sarah Palmer constituting a quorum of the Board.

Staff members in attendance were Kathryn Mallon, Joshua Nelson, and June Skillman.

3. CLOSED SESSION

4. PLEDGE OF ALLEGIANCE

President Estremera convened the open session at approximately 2:15 p.m. and led all present in reciting the Pledge of Allegiance.

5. REPORT OUT OF CLOSED SESSION

a. Public Employee Performance Evaluation

- i. Title: Executive Director

Mr. Nelson reported that there were no reportable actions taken in Closed Session.

b. Conference with Real Property Negotiator pursuant to Gov't Code section 54956.8:

Property: 980 9th Street, Sacramento, Ca

Agency Negotiator: K. Mallon

Negotiating Party: CBRE

Under Negotiation: Lease Price and Terms

Mr. Nelson reported that there were no reportable actions taken in Closed Session. However, in the entrance of transparency Mr. Nelson wanted to note that no final lease was approved for item 3b.

6. PUBLIC COMMENT

President Estremera opened Public Comment, limiting speaking time to three minutes each.

Ms. Deirdre Des Jardins, California Water Research, expressed approval of the pause in the Delta Conveyance Project and suggested that this time be taken to reevaluate the impacts of sea-level rise and potential levee failures north of Isleton on the Project's design life.

Mr. Dan Whaley, member of the public, expressed concern of an executed contract that was put in place to design the twin Delta tunnels and is expending approximately \$20 million per year. The Project is now changing, and Mr. Dan Whaley suggested a delay in the design contract until a Project is fully known.

7. APPROVAL OF MINUTES: April 18, 2019 Regular Board Meeting

Recommendation: April 18, 2019 Regular Board Meeting

Move to Approve Minutes from both meetings: Arakawa

Second: Estremera

Yeas: None

Nays: None

Abstains: None

Recusals: None

Absent: Blois and Palmer

Summary: President Estremera moves approval of April 18, 2019 Board Meeting minutes to next meeting, not enough attendees from previous Board Meeting for a quorum. Motion fails.

8. CONSENT CALENDAR

There were no items on this month's consent calendar.

9. DISCUSSION ITEMS:

a. Consider Passing Resolution Adopting the Delta Conveyance Design and Construction Authority Purchasing and Procurement Policy

Recommendation: Adopt Resolution approving the Purchasing and Procurement Policy.

Ms. Kathryn Mallon, Executive Director, presented a summary of the staff recommendation to approve a policy and procedure for purchasing and procurement:

- Allow \$250,000 contracting authority for the Executive Director, including change orders and construction contracts, as long as the aggregate of change orders is less than 5%.
- Allows for sole sourcing of contracts under \$75,000 for general purchasing and under \$25,000 for public works contracts.
- Allows for competitive bids for best value prequalification and low-bid solicitations.

- Allows small Disabled Veterans Business contracting and provides a preferred local programs list.
- Authorizes Executive Director to implement procedures that are consistent with policy for purchasing and procurement.

Ms. Palmer asked about part of Agenda Item 9a regarding emergency contracting and the time limit needed to inform the Board. Ms. Mallon clarified that this is an exception and in an emergency situation, she is not limited to the \$250,000 contracting limit. Ms. Palmer suggested that the Board be contacted within 7 days of the emergency regardless of when the next Board meeting was set to occur. Mr. Blois asked if there was a definition of local preference that has been developed. Ms. Mallon agreed a local preference definition that is consistent with laws and regulations is needed and more research will be required to maximize potential opportunity to benefit the Delta. Mr. Estremera also agreed that a local preference definition that is clearly defined is important.

Move to Approve Passing Resolution Adopting the Delta Conveyance Design and Construction Authority Purchasing and Procurement Policy, with change of 7 days

as noted: Blois
 Second: Palmer
 Yeas: Estremera, Arakawa, Blois, and Palmer
 Nays: None
 Abstains: None
 Recusals: None
 Absent: None
 Summary: 4 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion Passed as Resolution 19-04)

b. Consider Authorizing Amendment of the Professional Services Agreement with Best Best & Krieger LLP

Recommendation: Adopt Resolution authorizing the Executive Director to amend the Professional Services Agreement with Best Best & Krieger LLP to extend the contract and provide additional funds of up to \$475,000 for a new total, not-to-exceed amount of \$900,000.

Ms. Mallon requested to extend Best Best & Krieger LLP’s services thru December 31, 2019 with a \$475,000.00 amendment bringing their contract total to \$900,000.00. This would be the third change order to their contract, with the first change being the reassignment of Mr. Joshua Nelson to General Counsel, and the second being the change of Agreement Administrator to Ms. Mallon.

Move to Approve Best Best & Krieger LLP amendment to extend their professional services agreement until Dec 31, 2019.

as noted: Palmer
 Second: Arakawa
 Yeas: Estremera, Arakawa, Blois, and Palmer
 Nays: None
 Abstains: None
 Recusals: None
 Absent: None
 Summary: 4 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion Passed as Resolution 19-05)

c. Consider Passing Resolution to Authorize the Executive Director to Negotiate and the President to Execute an Amendment to the Joint Exercise of Powers Agreement for Planning and Environmental Services in Support of the Environmental Analysis for a Potential Delta Conveyance Project, and to Determine such Actions are Exempt from the California Environmental Quality Act

President Estremera indicated that public comments were submitted for this agenda item and that the public comment would be heard prior to the staff's recommendation and report.

Mr. Gary Lippner, Deputy Director of Delta Conveyance at Department of Water Resources, requested that Agenda Item 9c be moved to an informational item for the Board and that action be taken at a later date. Mr. Lippner outlined that there is misunderstanding over Agenda Item 9c and delaying action for a later date would allow the DCA, DWR, and stakeholders an opportunity to meet and clarify these misunderstandings. On May 2, DWR announced its actions to align with the Governor's single tunnel Delta Conveyance Project and provided a memo to the DCA outlining its actions and next steps. DWR will lead environmental planning with the DCA conducting engineering, design, and activities in support of environment planning. Mr. Lippner requested that the DCA advance engineering and design to address issues of concern among Delta communities and design mitigation to help reduce impacts. Mr. Lippner asked that it be clarified for the members of the public that DWR will be the lead agency for the CEQA environmental review process. Mr. Lippner noted that the DCA will play an important role in supporting this environmental planning and stakeholder engagement process by providing engineering, design, and field investigations needed to inform and advance meaningful discussions on alternatives, impacts and mitigation.

Mr. Don Nottoli, member of the Sacramento County Board of Supervisors and Delta Counties Coalition, expressed his thanks to DWR for requesting for Agenda Item 9c to be moved to an informational item to allow for further discussions amongst interested parties. Mr. Nottoli expressed that it was important for discussions to take place over the next few weeks to better understand what was embodied in Agenda Item 9c and what the intent was. Mr. Nottoli further noted that it would be very important to all parties, that any agreement structured to have action taken by this Board, be made available for public review prior to a resolution adopted the agreement.

Ms. Deirdre Des Jardins, California Water Research, requested that the Board consider not continuing the existing contracts with Jacobs and Fugro because it would be very expensive to try to do this Project with change orders to the existing Project. Ms. Des Jardins noted that a team met in 2010 to consider the location of the intakes and did not consider construction impacts because they were temporary. Ms. Des Jardins stated that this was against the Delta Reform Acts because there is a large impact on the community of Hood and Clarksburg with the current location of the intakes.

Ms. Osha Meserve, local agency representative, expressed that the confusion surrounding Agenda Item 9c may have resulted from the agenda item itself and that it was not clear what the amendment to the JEPA is and what the Executive Director is being authorized to negotiate. Ms. Meserve also stated that stakeholders would like to see this happen in a public forum, so they could understand what is being negotiate. Ms. Meserve noted that the now decertified environmental review and Project approval is the basis for the JPA's existence and there is no environmental review to cover actions by the Board. Further, adoption of piecemeal exemptions of CEQA as shown in this agenda item don't resolve this. Ms. Meserve also noted that a process

has been called by the Governor that looks at all the options to meet our water supply needs and she would like to see that happen.

Mr. Joshua Nelson, General Counsel, stated that considering Mr. Lippner's comments and other public interest in this item that the staff modifies its request for the Board to treat this as an information item and bring it back at a future Board meeting for action.

d. Discussion and potential creation of an Environmental Committee of the Board of Directors

President Estremera placed this item on the agenda to obtain feedback from the Board on the formation of the Environmental Compliance and Mitigation Committee. President Estremera read an excerpt of the Joint Powers Agreement, page 9 Article 10, that stated the formation requirement of such a committee. President Estremera noted that the Environmental Compliance and Mitigation Committee should be chaired by the Kern County Water Agency representative and vice-chaired by the State Water Contractors representative, Ms. Palmer. Since the Board does not have a Kern County Water Agency representative, President Estremera suggested that the chair of the Environmental Compliance and Mitigation Committee be Ms. Palmer, representing the State Water Contractors at large and vice-chaired by the Santa Clara Valley Water District representative, President Estremera. President Estremera indicated that the Board needs to consider who should be on the committee, how many people, and how they should be appointed in order to work towards an environmental work plan that will outline activities and policies for the Board to review and approve. Ms. Palmer asked how many people were being considered, President Estremera thought that a good number would be 12 but it was open for discussion and input. Ms. Palmer also asked if the makeup of the committee would be similar to the Finance Committee. To which President Estremera replied, it could include staff, employees, members of the public, etc. as long as they are qualified to serve. Mr. Blois stated that he thought 3 appointees per Board member was too many, 2 appointees would be his recommendation. Mr. Arakawa stated that he agreed with the formulation of the committee and the recommendation of the officers (chair and vice-chair) of the committee. Mr. Arakawa noted that further discussion is needed on the makeup of the committee and who participates. President Estremera acknowledged more discussion and input was needed from Board members and from community members, this item will appear again on the agenda for future discussion and action.

10. STAFF REPORTS AND ANNOUNCEMENTS:

a. Executive Director Report

A written report was provided in the Board package. Ms. Mallon gave a brief highlight of the close collaboration that has been occurring with Gary Lippner, DCO DWR, after the Governor's pivot to the single tunnel Delta Conveyance Project. Ms. Mallon also provided an update on Parson's final task order for project management support services, budget information as well as collaboration of additional engineering staff, has been included in the written report.

b. General Counsel Report

A written report was provided in the Board package. Mr. Nelson gave a brief update of the purchasing policy and thanked the Board for approving Agenda Item 9a.

c. Treasurer's Report

A written report was provided in the Board package. Ms. Skillman had nothing to add and there were no additional questions or comments.

d. Verbal Reports

No verbal reports were provided.

11. FUTURE AGENDA ITEMS:

Ms. Palmer would like to add the DCA website update to a future agenda discussion. The DCA's web site needs to be updated with the changes occurring in the program, provide more transparent and relevant information (e.g., Governor's Executive Orders) to inform stakeholders and the general public.

12. ADJOURNMENT:

President Estremera adjourned the meeting at 2:58 p.m., in the Sacramento Public Library, Tsakopoulos Library Galleria, 828 I Street, Sacramento.