

BOARD OF DIRECTORS MEETING

MINUTES

REGULAR MEETING

Thursday, April 16th, 2020

2:00 PM

(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 remotely - Conference Access Information: Phone Number: 1 (916) 262-7278 Access Code: 1492744008#. <https://meetings.ringcentral.com/j/1492744008>

2. ROLL CALL

Board members in attendance were Tony Estremera, Richard Atwater, Sarah Palmer, and Steve Blois constituting a quorum of the Board.

DCA staff members in attendance were Kathryn Mallon, Carrie Buckman, Joshua Nelson, Nazli Parvizi and Katano Kasaine.

3. PLEDGE OF ALLEGIANCE

President Tony Estremera convened the open session at approximately 2:00 p.m. and led all present in reciting the Pledge of Allegiance.

4. PUBLIC COMMENT

President Estremera opened Public Comment, limiting speaking time to three minutes each. No Public Comments received for Item 4 on the agenda. President Estremera closed Public Comment.

5. APPROVAL OF MINUTES: March 19, 2020 Regular Board Meeting

Recommendation: Approve the March 19, 2020 Regular Board Meeting Minutes

Move to Approve Minutes from March 19, 2020 Board Meeting: Atwater

Second: Palmer

Yeas: Estremera, Palmer, Blois, Atwater

Nays: None

Abstains: None

Recusals: None

Absent: None

Summary: 4 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion passed as MO 20-04-01).

6. CONSENT CALENDAR

- a. None.

7. DISCUSSION ITEMS:

- a. **Consider Passing Resolution Authorizing Award of General Counsel Services Contract to Best Best and Krieger LLP**

Recommendation: Pass Resolution Authorizing Award of General Counsel Services Contract to Best Best and Krieger LLP

Ms. Mallon briefly discussed the Request for Qualifications (RFQ) for General Counsel services. The DCA requests authorization for a 5-year plus 2-month contract with BBK, with the ability to renew up to 5-year increments. The proposed contract value is 3.9M. The DCA is requesting a 15% contingency of \$585K that would be utilized with prior Board approval. The DCA also requests to sign the task order for \$110K to cover the period of performance of May 1, 2020 to June 30, 2020. This represents the period from the end of the current BBK Task Order as Interim General Counsel to the end of the current fiscal year.

Ms. Palmer commented that she feels we have been very well served up to this point by BBK and supports their continuation.

Move to Pass the Resolution to Authorize Award of General Counsel Services Contract to Best Best and Krieger LLP,

as Noted: Blois
 Second: Palmer
 Yeas: Estremera, Atwater, Palmer, Blois
 Nays: None
 Abstains: None
 Recusals: None
 Absent: None
 Summary: 4 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion passed as Resolution 20-02).

b. Stakeholder Engagement Committee Update

Ms. Nazli Parvizi noted that the March 25th SEC meeting was canceled and will reconvene on April 22nd via teleconference. The DCA has been working with the SEC members to ensure they have the technology they need in order to attend the virtual meeting. The April 22nd meeting will include information on the final facilities siting with a presentation on the South Delta Facilities.

Ms. Parvizi explained that the DCA supports anyone on the committee that is unable to provide feedback or participation until future months. The DCA contacted each committee member in March to confirm those that could attend the April 22nd SEC meeting. Of the 20 SEC member, all but 2 declared that they could attend. Ms. Parvizi mentioned this to clarify that the DCA did not mean to imply that there was overwhelming support for the project but rather that the majority of the committee had confirmed and agreed that they could attend the next SEC meeting. Ms. Parvizi stated that she understands that there have been various letters mailed in asking to pause the project but it

is DWR's and the Governors decision to continue. Ms. Parvizi clarified further that if the SEC members do not wish to have meetings right now, they have the right to make that decision. On the agenda for the April 22nd meeting, there is an item to discuss how the SEC will run moving forward in regards to the stay at home order. Ms. Parvizi confirmed that the DCA wishes to move forward with the project. With other agencies and sister agencies such as the Delta Protection Commission (DPC) functioning effectively with their remote meetings, we do not see why then the DCA is expected to cancel their meetings. The SEC is an advisory committee which means that if the SEC meetings do not continue, the DCA will unfortunately lose an avenue for feedback on the project but the project will not stop because of this. If there is not a quorum for the April 22nd meeting, what the DCA will do instead is present our information as a public webinar. Ms. Parvizi would like to use the changes in the Brown Act related to teleconference as an opportunity to broaden our outreach remotely and would like to continue to use this avenue even after the pandemic is over. Different feedback platforms are being administered by the DCA including Facebook, Twitter, YouTube, and a new DCA website that will be released at the end of June. Ms. Parvizi wanted to speak on a feedback letter that we received from a member of the public which stated that although they do not support this project, they want to continue to give input on siting specific locations and such. This type of constructive feedback is very much appreciated.

Ms. Palmer presented a letter from the public that she received, stating that they support the DCA's intent to move forward with SEC meetings in whatever manner. Although the author of the letter remains generally opposed to the project, because of the SEC, he sees for the first time an opportunity for a constructive approach with identifying how the Delta communities might be able to benefit from the project.

Ms. Barbara Barrigan-Parrilla, SEC member, mentioned that a note was sent to the DCA staff regarding an issue with community outreach. There are too many residents in the Delta in poor rural communities that are unable to focus on the infrastructure project. She felt that "either/or" regarding participation is not the answer and thinks that it is dangerous to run the meetings as only informational. If the DCA moves too hard ahead of the community, how can the community ever catch up to the DCA? Ms. Barrigan-Parrilla noted that some of the SEC members only provide outreach to a small group of people that they know rather than doing outreach for the broader Delta community.

Ms. Osha Meserve, Local Agencies of the North Delta, was concerned that the window for feedback from the SEC will close if they chose to not participate. She felt that it should not be a now or never situation. Ms. Meserve stated that it is not fair to say that the DCA Board meeting participation has increased when some of the individuals that are calling in are asking for the project to be put on hold. Ms. Meserve asked that the DCA re-consider to pause the stakeholder process and pause the engineering enough that we can circle back to incorporate input. Having online meetings should not be a substitution for the greater engagement process.

Ms. Anna Swenson, SEC member, stated that she has taken her role very seriously by being a community organizer. Ms. Swenson said that she was attending multiple meetings a week in her community to make sure the folks understood the basics of the project. She asked the Board for help in the Delta with their internet issues. With the Covid-19 pandemic, Ms. Swenson stated that it is making it very difficult for her to engage with the community and to please consider putting the project on pause because there is no way for her to gather input that the DCA needs for the project. Ms. Swenson stated that the SEC is a very good process but the pandemic has stepped in the way of it.

Ms. Malissa Tayaba, SEC member, and Shingle Springs Band of Miwok Indians, said the Delta tribes want to make sure their voices are heard on this project and let the DCA know that they strongly feel the project will hurt tribes. Tribal concerns involve the destruction of their waterways, sacred sites, village sites, gathering sites, and natural resources that will be greatly affected. Tribes would like to address their plant and animal relatives and really take a look at how to save them from extinction as well as the issue of water quality on the river. Ms. Tayaba requested that all hearings, meetings, and public comment periods related the DCA project be postponed until the currently national Covid-19 health pandemic is over. Ms. Tayaba felt that true public engagement as well as meaningful consultation with tribes cannot be adequately accomplished under these unprecedented circumstances. At the federal level, on April 14th, house committee chair wrote a letter requesting public comment period, hearings and meeting be extended 45 days beyond the end of the declared national emergency. If this cannot be done, they ask that the project be postponed.

Mr. Jesus Tarango, SEC member and Wilton Rancheria & Delta Tribes, wrote that given the current circumstance around Covid-19, he does not see fit that the public meetings and tribal consultation meetings related to the DCA project continue. Mr. Tarango requested that the DCA postpone any meetings or discussions regarding the DCA project until this national pandemic has been successful resolved. Mr. Tarango does not believe meaningful participation can be achieved under the current emergency circumstances and urge that all public meetings be postponed effective immediately.

Ms. Palmer presented an idea of possibly helping the SEC members distribute materials to the public, provide loaner hotspots, etc. Ms. Palmer noted that there has been greater attendance than they have ever had in the past with virtual meetings.

Ms. Mallon stated that the DCA will continue to be transparent and is committed to working through this time period. Ms. Mallon said that there is an opportunity to find a middle ground for participation and would like to keep online participation for future meetings due to amount of people that can not attend in person.

Mr. Estremera spoke about the possibility of finding ways to provide WiFi to help with communication in the Delta and support the community in this way. Ms. Mallon says this is something that is worth looking into. Mr. Estremera wants to make sure that we are responsive to the public comments that were received in this meeting and reiterated that is it really up to the SEC committee on where they go from here in regards to continuing meetings.

Ms. Barbara Keegan, SEC Vice-Chair, thanked the public speakers in the meeting. Ms. Keegan noted that there are folks that do wish to continue with the process and need to leave it up to the totality of the SEC to make a decision in terms of what they feel is appropriate. Ms. Keegan said that it is premature to take a position and should give our best effort to see how we can successfully move things forward and adapt as necessary.

c. DCA Board Meeting Questions and Answers Tracker

Ms. Mallon gave a brief description of the CRM database the DCA has for the purpose of gathering all engagement efforts and question/comments made by the public. Ms. Mallon mentioned that the new website will have a link connected to this database that people can search questions that have

been asked and answered. Technical Questions asked at the previous Board meeting have been answered and included in the Board package.

d. April DCA Monthly Report

Ms. Mallon pointed out that as we are getting closer to end of the fiscal year, the DCA is starting to re-budget based on activities. Commitments have been reduced by 11M with a deduction in the engineering contract mostly, related to work that DCA won't be able to do this year. The Estimate of Completion is reduced to 38M.

Ms. Palmer was very pleased to see the graph on the budget which made it visually easy to understand.

8. STAFF REPORTS AND ANNOUNCEMENTS:

a. General Counsel's Report

A written report was provided in the Board package. Mr. Nelson noted that construction remains ongoing on the 1st floor Board room. Secondly, following up on the ethics training from last month, this training has been rescheduled for the following week.

b. Treasurer's Report

A written report was provided in the Board package. Ms. Kasaine mentioned that we started the beginning of the month with 1.6M, received about 6M in cash from DCO and payments of about 3.2M, and ending up with about 4.4M. Shortly after that, we made payments and ended with 775K. There are 6.7M payables expected for this month.

c. DWR Environmental Manager's Report

A written report was provided in the Board package. Ms. Buckman noted that the close of the CEQA comment period for scoping is April 17th.

d. Verbal Reports

Ms. Palmer mentioned that she attended to the DPC meeting with Ms. Mallon. In addition, ACWA gave a presentation of the financial effects of COVID-19 and how some of the stimulus packages might be affecting agencies. Ms. Palmer mentioned she that she could provide a copy of the presentation.

9. FUTURE AGENDA ITEMS:

None.

10. ADJOURNMENT:

President Estremera adjourned the meeting at 3:07p.m., remotely - Conference Access Information:
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