



**DELTA CONVEYANCE FINANCE AUTHORITY
BOARD OF DIRECTORS MEETING**

REGULAR MEETING

Thursday, January 21, 2021
11:00 a.m.

Via Teleconference:
United States: +1 (571) 317-3122
Access Code: 997-866-157

AGENDA

SPECIAL NOTICE REGARDING COVID-19

On March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of the threat of COVID-19. On March 17, 2020, Governor Newsom issued Executive Order N-29-20 (superseding the Brown Act-related provisions of Executive Order N-25-20 issued on March 12, 2020), which allows a local legislative body to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body. Pursuant to Executive Order N-29-20, please be advised that members of the public will participate in meetings telephonically.

PUBLIC PARTICIPATION: Pursuant to Executive N-29-20 and given the current health concerns, members of the public can access meetings via conference call at **United States: +1 (571) 317-3122, Access Code: 997-866-157.** In addition, members of the public can submit comments electronically for consideration by **9:00 a.m. on January 21, 2021** by sending them to **lindastandlee@dcfinanceauthority.org**. To ensure distribution to the members of the DC Finance Authority Board of Directors prior to consideration of the agenda, **please submit comments prior to 9:00 a.m. on January 21, 2021.** Those comments will be distributed to the members of the DC Finance Authority Board and will be made part of the official public record of the meeting. Contact Linda Standlee at 916-812-6400 with any questions.

ACCESSIBILITY: If requested, the agenda and backup materials will be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Any person who requires a disability-related modification or accommodation, in order to observe and/or offer public comment may request such reasonable modification, accommodation, aid, or service by contacting **Linda Standlee** by telephone at **916-812-6400** or via email to **lindastandlee@dcfinanceauthority.org** no later than **5:00 p.m.** on January 20, 2021.

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGIANCE**
- 4. PUBLIC COMMENT**
- 5. OTHER MATTERS**
 - a. None.

6. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the Board of Directors and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a director so requests, in which event the item will be removed from the Consent Calendar and considered separately.

- a. Approval of the minutes from the meeting of October 15, 2020

7. SCHEDULED ACTION ITEMS

- a. Election of Officers
- b. Appointments to Executive Committee
- c. Review of AB 992 "Open Meeting: Local Agencies: Social Media"

8. REPORTS AND ANNOUNCEMENTS

- a. Update on Delta Conveyance Design & Construction Authority Activities
- b. Treasurer's Report
- c. General Counsel's Report
- d. Executive Director's Report

9. FUTURE AGENDA ITEMS

10. CLOSED SESSION

- a. Conference with legal counsel pursuant to Government Code section 54956.9, potential litigation: one case.

11. ADJOURNMENT

BOARD OF DIRECTORS MEETING

MINUTES

REGULAR MEETING
Thursday, October 15, 2020
11:00 am

(Paragraph numbers coincide with agenda item numbers)

1. CALL TO ORDER

The regular meeting of the Delta Conveyance Finance Authority (Finance Authority) Board of Directors was called to order by President Record via teleconference at 11:09 a.m. Linda Standlee reviewed the process the Board and public would follow for the meeting, noting that all voting would be via roll call vote, as the meeting was being held remotely.

2. ROLL CALL

Board members in attendance were Robert Cheng, Kathy Cortner, Jeff Davis, Mark Krause, Gary Kremen, Valerie Pryor, Randy Record, Cindy Saks, Paul Sethy, and Matt Stone.

Director Dwayne Chisam joined the meeting at 11:25.

Staff members in attendance were Brian Thomas, Katano Kasaine, and Steve O'Neill.

3. PLEDGE OF ALLEGIANCE

Steve O'Neill led the Pledge of Allegiance.

4. PUBLIC COMMENT

President Record declared public comment open, limiting speaking time to three minutes.

Ms. Standlee noted that a letter from Terra Land Group, LLC dated October 7, 2020 had been received and distributed to the board members.

No members of the public requested time to speak, therefore President Record closed public comment.

5. OTHER MATTERS

5.a. None.

6. CONSENT CALENDAR:

6.a. Approval of the minutes from the meeting of October 15, 2020.

Motion:	Approve the minutes from the meeting of October 15, 2020
Move to Approve:	Kathy Cortner
Second:	Gary Kremen

Agenda Item 6.a

Yeas: Robert Cheng, Kathy Cortner, Jeff Davis, Mark Krause, Gary Kremen, Valerie Pryor, Randy Record, Cindy Saks, Paul Sethy, and Matt Stone
Nays: None
Abstains: None
Recusals: None
Absent: Dwayne Chisam
Summary: 10 Yeas; 0 Nays; 0 Abstains; 1 Absent. (Motion passed as MO 20-10-01)

7. SCHEDULED ITEMS

7.a. Approval of a no-cost extension to Michael Bell Management Consulting Contract for Executive Director

Director Record queried for public comment on this item. No public comment was offered. Executive Director Thomas introduced this item for the Board. Mr. Thomas noted the agreement for his services ends on December 31, 2020. Mr. Thomas noted that as shown in the 2020/21 budget, the DCFA's activities have been limited to administrative and maintenance functions. Given this change, the cost for executive director activities has been significantly lower than previously anticipated when the original contract was executed. Total expenditures under the contract through September 2020 are anticipated to be about \$100,000, or about 50% of the total contract amount. Expenditures for fiscal year 2019/20 are estimated to be less than the budget of \$60,000. Mr. Thomas discussed that at this level of spending, the existing contract with Michael Bell Management Consulting can be extended for another year without additional cost.

Motion: Approve a no-cost extension to Michael Bell Management Consulting Contract for Executive Director Services through December 31, 2021
Move to Approve: Jeff Davis
Second: Valerie Pryor
Yeas: Robert Cheng, Kathy Cortner, Jeff Davis, Mark Krause, Gary Kremen, Valerie Pryor, Randy Record, Cindy Saks, Paul Sethy, and Matt Stone
Nays: None
Abstains: None
Recusals: None
Absent: Dwayne Chisam
Summary: 10 Yeas; 0 Nays; 0 Abstains; 1 Absent. (Motion passed as MO 20-10-02)

After the Board considered item 7.b., Director Record asked for a reconsideration of this vote out of an abundance of caution, due to Mr. Thomas' membership in a business venture operated by Mr. Record's wife (Mr. Thomas participates in Record Family Wines wine club). Steve O'Neill agreed the prudent action would be take a motion to reconsider, followed by action on the item, with President Record recusing himself from the discussion.

Motion: Motion to reconsider approval of a no-cost extension to Michael Bell Management Consulting Contract for Executive Director Services through December 31, 2021

Agenda Item 6.a

Move to Approve: Matt Stone
Second: Gary Kremen
Yeas: Robert Cheng, Dwayne Chisam, Kathy Cortner, Jeff Davis, Mark Krause, Gary Kremen, Valerie Pryor, Randy Record, Cindy Saks, Paul Sethy, and Matt Stone
Nays: None
Abstains: None
Recusals: None
Absent: None
Summary: 11 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion passed as MO 20-10-04)

Mr. O'Neill requested that Director Record leave the dais for the discussion of the no-cost extension to Michael Bell Management Consulting Contract. Vice Chair Kremen requested a motion and second on this matter. Vice Chair Kremen queried for public comment on this item. No public comment was offered.

Motion: Approve a no-cost extension to Michael Bell Management Consulting Contract for Executive Director Services through December 31, 2021
Move to Approve: Jeff Davis
Second: Valerie Pryor
Yeas: Robert Cheng, Dwayne Chisam, Kathy Cortner, Jeff Davis, Mark Krause, Gary Kremen, Valerie Pryor, Cindy Saks, Paul Sethy, and Matt Stone
Nays: None
Abstains: None
Recusals: None
Absent: Randy Record
Summary: 10 Yeas; 0 Nays; 0 Abstains; 1 Absent. (Motion passed as MO 20-10-05)

7.b. Receive and file the 2019/20 Audit Report

Director Record queried for public comment on this item. No public comment was offered. Ms. Ingrid Shepline of Richardson & Company presented this item to the Board. Ms. Shepline noted she would be discussing the opinion on the financial statement, Governance letter and Management letter for the Board. She noted that the financial statements are presented on a cash basis, showing actual receipts and disbursements. She noted that given DCFA has no assets other than the cash and investments in the trust fund, the cash basis of accounting is the easiest and most transparent way to present the financial activities of the DCFA. Ms. Shepline noted that the Governance Letter includes certain required disclosures to the board and that these disclosures are required under external audit standards. She went on to discuss that the Management Letter addresses the external auditor's review of internal controls as it pertains to their audit of the DCFA's financial statements and that there were no material weaknesses or recommendations reported by the external auditor.

Motion: Receive and file the 2019/20 Audit Report
Move to Approve: Jeff Davis
Second: Paul Sethy

Yeas: Robert Cheng, Dwayne Chisam, Kathy Cortner, Jeff Davis, Mark Krause, Gary Kremen, Valerie Pryor, Randy Record, Cindy Saks, Paul Sethy, and Matt Stone

Nays: None

Abstains: None

Recusals: None

Absent: None

Summary: 11 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion passed as MO 20-10-03)

8. REPORTS AND ANNOUNCEMENTS

8.a. Executive Director Report

Mr. Thomas noted his written report and updated actions were included in the Board packet. He noted that during the last few months activities associated with the DCFA have been focused on administrative activities and completing the external audit.

8.b. General Counsel Report

Mr. O'Neill reported on activities which occurred during the last two months. He noted that during the last few months his activities associated with the DCFA have been focused on administrative-type activities.

8.c. Treasurer's Report

Ms. Kasaine discussed the Treasurer's report with the Board, noting that expenditures were under budget due to lower activity than anticipated.

9. FUTURE AGENDA ITEMS

There were no future agenda items.

10. CLOSED SESSION

10.a. Conference with legal counsel pursuant to Government Code section 54956.9, potential litigation: one case.

Mr. O'Neill reported that the Board met pursuant to Government Code section 54956.9, to discuss one item of potential litigation. A report was given to the Board, with no formal action taken by the Board.

11. ADJOURNMENT:

President Record adjourned the meeting at 12:29 p.m.

Agenda Item 7.c

AB 992

Open meetings; local agencies; social media

January 21, 2021

1

Brown Act: Unclear as to Social Media

- Requires open, publicly accessible meetings—with advance notice
 - “Meetings”: means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.
- Prohibits “serial communications”
 - Where a majority of legislative body engages in series of communications to discuss, deliberate, or take action on an item
- But doesn’t specifically address communication on Social Media

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AB 992 Changes the Brown Act

- AB 992: first amendment to the Brown Act to address public officials' use of social media.
- New exception to ban on "serial communications". Member of legislative body may engage in conversations on social media if the purpose is to:
 - 1) Answer questions, provide information to the public, or solicit information from the public; *and*
 - 2) As long as a majority of the members of that legislative body do not discuss agency business of a specific nature among themselves.
- **The bill specifically prohibits a member of a legislative body from responding directly to any communication made, posted, or shared by another member of that body regarding any matter within the agency's jurisdiction.**

3

3

Implications of AB 992

- Wide reaching application to all *types* of social media platforms and *conduct* therein.
 - Ordinarily, a single communication between officials was not considered "serial communication". But now, even single "like" or "comment" could be violation of Brown Act, assuming the two serve on same legislative body.
 - Example:
 - Official "A" posts "smiley face" emoji in response to a *constituent's* Facebook post. This action is permitted by AB 992, as it is directed to a member of the public and does not involve another official of the same legislative body.
 - Official "A" post "thumbs up" in direct response to Official "B"'s tweet. This is prohibited by AB 992, as it is a communication between two officials of the same legislative body.
 - Unclear whether a "thumbs up" to a *retweeted* communication is considered a direct communication between officials of same legislative body in violation of AB 992.

4

4

Future Policy Considerations

- If AB 992 means social media comments could violate Brown Act, are posts and comments now subject to California Public Records Act?
 - Future cases dealing with Social Media in context of records retention: likely starting place is identifying social media posts within context of existing records categories; *e.g.*, emails? Text messages? Policy documents?
- Due Process concerns: do social media posts now constitute “notice”? Is the opportunity to present to decision-maker limited to the post? Does public lose chance for fair hearing if miss out on social media updates?
- Social media platform as public forum...1st Amendment protections; does individual official's post represent agency?

5



Board Memo

Contact: Katano Kasaine, Treasurer

AGENDA DATE: January 21, 2021

Item No. 8.b

Subject: Treasurer's Report, Quarter Ended December 31, 2020

Executive Summary

The beginning cash balance in the DCFA Trust at September 1, 2020 was \$617,288. Receipts for the three months ended December 2020 totaled \$2,074, consisting of interest receipts. Disbursements totaled \$33,080 during the three months ended December 2020. The ending cash balance at December 31, 2020 was \$586,282.

Attached is a schedule of Budget versus Actual through December 31, 2020. Year-to-date actual expenses were \$176,943 lower than budget due to limited opportunities to assist in financing, as well as the impacts of the pandemic on travel and meetings, the activities of the DCFA have been limited.

Detailed Report

See attached Statements

Recommended Action

For information only

ATTACHMENTS:

Attachment 1: DCFA Quarter Ended December 31, 2020 Financial Statements and Budget versus Actual



DELTA CONVEYANCE FINANCE AUTHORITY

Statement of Net Position

As of December 31, 2020

Assets:

Cash	\$	586,282
Interest receivable		555
Prepays		<u>6,252</u>
Total assets	\$	<u><u>593,089</u></u>

Net position	\$	<u><u>593,089</u></u>
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DELTA CONVEYANCE FINANCE AUTHORITY
Statement of Cash Receipts and Disbursements

	Quarter Ended Dec '20	Year to Date Jul '20-Dec '20
Receipts:		
Interest receipts	\$ 2,074	\$ 4,584
Total receipts	<u>2,074</u>	<u>4,584</u>
Disbursements:		
Executive director	1,950	7,313
Insurance premiums	8,635	8,635
Treasury and accounting	15,000	15,000
Professional services	7,495	8,825
Total disbursements	<u>33,080</u>	<u>39,773</u>
Net change in cash	(31,006)	(35,189)
Cash at July 1, 2020	—	621,471
Cash at September 1, 2020	<u>617,288</u>	<u>—</u>
Cash at December 31, 2020	<u>\$ 586,282</u>	<u>\$ 586,282</u>



DELTA CONVEYANCE FINANCE AUTHORITY
Statement of Revenues, Expenses, and Changes in Net Position

	Quarter Ended Dec '20	Year to Date Jul '20-Dec '20
Revenues:		
Interest income	\$ 1,890	\$ 4,334
Total revenues	<u>1,890</u>	<u>4,334</u>
Expenses:		
Executive director	1,950	3,088
Insurance premiums	3,166	6,169
Treasury and accounting	15,000	15,000
Professional services	7,495	8,300
Total expenses	<u>27,611</u>	<u>32,557</u>
Changes in net position	(25,721)	(28,223)
Net position at June 30, 2020	—	621,312
Net position at September 30, 2020	<u>618,810</u>	<u>—</u>
Net position at December 31, 2020	<u>\$ 593,089</u>	<u>\$ 593,089</u>

* Balances may include prior quarter accruals that were not previously captured due to timing.



DELTA CONVEYANCE FINANCE AUTHORITY

Schedule of Invoices Paid

for the Six Months Ended December 31, 2020

<u>Vendor</u>	<u>Invoice #</u>	<u>Invoice Date</u>	<u>Payment Date</u>	<u>Period of Expense</u>	<u>Amount</u>	<u>Disbursement Category</u>
1 Michael Bell Management Consulting	518	06/24/20	07/01/20	05/01/20-05/31/20	\$ 4,225	Executive director
2 Olivarez Madruga Lemieux O'Neill, LLP (OMLO)	11271	06/30/20	08/03/20	06/01/20-06/30/20	525	Professional services
3 Olivarez Madruga Lemieux O'Neill, LLP (OMLO)	11409	07/31/20	08/14/20	07/01/20-07/31/20	805	Professional services
4 Michael Bell Management Consulting	524	07/31/20	08/14/20	06/01/20-06/30/20	1,138	Executive director
5 Michael Bell Management Consulting	532	09/30/20	10/14/20	09/01/20-09/30/20	1,950	Executive director
6 Metropolitan Water District of So. Ca	46989	09/30/20	10/14/20	03/01/20-10/31/20	15,000	Treasury and accounting
7 Olivarez Madruga Lemieux O'Neill, LLP (OMLO)	11718	08/31/20	10/23/20	08/01/20-08/31/20	70	Professional services
8 Olivarez Madruga Lemieux O'Neill, LLP (OMLO)	12127	09/30/20	10/23/20	09/01/20-09/30/20	140	Professional services
9 Richardson & Company LLP	111175	10/20/20	11/02/20	06/10/20-10/20/20	4,475	Professional services
10 Olivarez Madruga Lemieux O'Neill, LLP (OMLO)	12541	10/31/20	11/24/20	10/01/20-10/31/20	2,610	Professional services
11 Olivarez Madruga Lemieux O'Neill, LLP (OMLO)	12684	11/30/20	12/22/20	11/01/20-11/30/20	200	Professional services
12 Alliant Insurance Services, Inc.	1483617	10/21/20	12/22/20	10/24/20-07/01/21	8,635	Insurance premiums
					<u>\$ 39,773</u>	

Executive director	\$ 7,313
Insurance premiums	8,635
Treasury and accounting	15,000
Professional services	8,825
	<u>\$ 39,773</u>

*Totals may not foot due to rounding.



Delta Conveyance Finance Authority
 Budget versus Actual
 FY 2020/21

Item	Actual Through December 31, 2020	Budget FY 2020/21	Budget Remaining	Percent of Budget Used
Executive director	\$ 3,088	\$ 60,000	\$ 56,912	5.1%
Professional services	8,300	78,500	70,200	10.6%
Treasury and accounting	15,000	30,000	15,000	50.0%
Insurance	6,169	13,000	6,831	47.5%
Travel and meeting	—	2,000	2,000	0.0%
Materials and supplies	—	1,000	1,000	0.0%
Contingency	—	25,000	25,000	0.0%
Total	\$ 32,557	\$ 209,500	\$ 176,943	15.5%

Board Memo

Contact: Brian Thomas, Executive Director

AGENDA DATE: January 21, 2021

Item No. 8.d

Subject: Executive Director's Report

Executive Summary

The DCFA's activity since the last meeting continues to be administrative in nature, while monitoring activities regarding the Delta Conveyance Project. We have continued to communicate with the State Water Contractors, including the Metropolitan Water District, the Department of Water Resources and the DCA to keep current with activities on the project.

Detailed Report

Administration. The insurance binder was executed and the invoice paid. As can be seen in the six month budget to actual report, activity was very limited, including a review of AB299. I have attached a copy of board actions to date for your reference.

Meetings/calls. The DCA's updated cost estimate of the project is now \$15.9 billion (2019 dollars). The DCA and Delta Conveyance Office planning budget for the next three years' worth of activities has been reduced to \$340.7 million. Eighteen State Water Project Contractors have approved cost share agreements (AIP) to fund planning. About 13% of the planning cost is likely to be funded with DWR funds. DWR continues to make progress on the environmental documents, and the DCA has continued its outreach through the Stakeholder Engagement process.

Future Activities

I will continue working with the members, the DCA, DWR and the state water project contractors to identify opportunities to support financial analysis and activities. In addition, the Executive Committee will meet over the next month to discuss funding and approach to education and outreach regarding the financing of planning and construction. This would include working with DWR and other organizations to help communicate to stakeholders how the project would be funded and how water agencies would recover those costs.

Recommended Action

Informational.

DELTA CONVEYANCE FINANCE AUTHORITY

Completed Actions as of:

December 31, 2020

Action	Date
Adopted the CEQA determination for actions related to California Water Fix – that the Board has reviewed and considered the BDCP/California WaterFix environmental documentation and adopts the lead agency’s Findings of Fact, Statement of Overriding Considerations, Mitigation Monitoring and Reporting Program	7/19/2018
Approved agreement with Metropolitan to provide treasury and accounting services	7/19/2018
Approved submittal of WIFIA Letter of Interest	7/19/2018
Approved execution of agreement with Michael Bell Consulting to retain the services of Brian Thomas as Interim Executive Director	7/19/2018
Approved Fiscal Year 2018/19 Operating Budget	8/16/2018
Approved Debt Management Policy	8/16/2018
Approved Investment Policy	8/16/2018
Approved Bylaws	11/15/2018
Approved extension of contract with Michael Bell Management Consulting for the services of Brian Thomas as Executive Director through December 31, 2019	12/14/2018
Adopted Conflict of Interest Code	12/28/2018
Approved Reimbursement Policy	1/17/2019
Approved execution of agreement with Oliverez Madruga Lemieux O'Neill to serve as general counsel	1/17/2019
Approved execution of agreement with Norton Rose Fulbright to serve as bond counsel	2/21/2019
Approved execution of agreement with Stradling Yocca Carlson & Rauth to serve as disclosure counsel	2/21/2019
Approved Fiscal Year 2019/20 Operating Budget and annual membership fees	5/16/2019
Approved execution of agreement with Richardson & Co. to provide external audit services	5/16/2019
Approved updated and amended Investment Policy	7/18/2019
Approved amendments to the DCFA bylaws	7/18/2019

DELTA CONVEYANCE FINANCE AUTHORITY

Completed Actions as of:

December 31, 2020

Action	Date
Approved no-cost extension to agreement with Michael Bell Management Consulting Services to provide Executive Director Services through December 2020	10/17/2019
Received and filed audited financial statements for fiscal year 2018/19	10/17/2019
Appointed Board Officers and Executive Committee	1/16/2020
Appointed MWD CFO as the Treasurer for the Authority	1/16/2020
Approved Fiscal Year 2020/21 Budget	5/21/2020
Approved Updated Investment Policy and Delegated authority to the Treasurer to invest funds	7/16/2020
Approved no-cost extension to agreement with Michael Bell Management Consulting Services to provide Executive Director Services through December 2021	10/15/2020
Received and filed audited financial statements for fiscal year 2019/20	10/15/2020