

BOARD OF DIRECTORS MEETING

MINUTES

REGULAR MEETING

Thursday, February 16, 2023

2:00 p.m.

(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: (669) 444-9171, Code: 896 2683 9778, <https://dcdca-org.zoom.us/j/89626839778?from=addon> at 2:00 pm.

2. ROLL CALL

Board members in attendance remotely were Martin Milobar, Miguel Luna, Tony Estremera, and Adnan Anabtawi. Sarah Palmer, Gary Martin, and Robert Cheng participated from the DCA Boardroom, constituting a quorum of the Board.

Alternate Directors in attendance remotely were Bob Tincher, Barbara Keegan, Royce Fast, Russel Lefevre and Dennis LaMoreaux. John Weed participated from the DCA Boardroom; the Board Clerk captured their attendance for the record.

DCA staff members in attendance were Graham Bradner, and Joshua Nelson.

DWR staff member in attendance was Carrie Buckman.

3. PLEDGE OF ALLEGIANCE

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

4. PUBLIC COMMENT

President Palmer opened Public Comment and there was one (1) public comment request received.

Kevin Johnston, Delta Landowner, provided public comment on having a transparent government is a critical part of our society and expressing his view that the DCA is not fulfilling or facilitating a transparent government. He indicated that this is evident from DCA's lack of compliance with the Public Records Act. He informed the Board that as a member of the public, he has made several public record requests to the DCA for critical information which would allow the public to dive into the working operations of the DCA. He stated that the public records have not been made available to him, but he has rather been provided with excuses by DCA Staff as to not provide the requested information that should be publicly accessible. He requested that the DCA fix the non-compliance with the Public Records Act and release the public information in which the DCA is obligated to make publicly available

upon request. He reiterated that a transparent government is one of the cornerstones of society and should be facilitated by every public agency. He additionally requested for the DCA to make all information it contains about every matter, readily available to every member of the public by publishing all documents on a publicly available website and providing the information to public members upon request.

President Palmer thanked Mr. Johnston for his public comment and advised him to contact the DCA's general counsel for clarification.

No further public comment requests were received, and the comment period was closed.

5. CONSENT CALENDAR

a) **Approve Resolution Authorizing Virtual Board and Committee Meetings Pursuant to AB 361/2449**

Recommendation: Approve Resolution Authorizing Virtual Board and Committee Meetings Pursuant to AB 361/2449

Motion to Approve Resolution Authorizing Virtual Board and Committee Meetings Pursuant to AB 361/2449, as

Noted: Martin
Second: Anabtawi
Yeas: Palmer, Milobar, Martin, Estremera, Cheng, Anabtawi
Nays: None
Abstains: Luna
Recusals: None
Absent: None
Summary: 6 Yeas; 0 Nays; 1 Abstain; 0 Absent. (Motion passed as Resolution 23-01).

6. SPECIAL ITEM

a) **Adoption of Resolution Commending and Thanking Director Atwater for His Service**

DCA Executive Director, Graham Bradner introduced this item. Mr. Bradner formally recognized former Director Atwater's for his participation and tenure on the DCA Board of Directors.

President Palmer recited the detailed report that was included in the Board packet, highlighting that Mr. Atwater has been instrumental to the creation of the DCA, its success to date, and its expected continued development.

Director Tony Estremera thanked Mr. Atwater for his service on the Board.

Recommendation: Approve Resolution Commending and Thanking Director Atwater for His Service

Motion to Approve Resolution Commending and Thanking Director Atwater for His Service, as

Noted: Estremera
Second: Milobar
Yeas: Palmer, Milobar, Martin, Luna, Estremera, Cheng, Anabtawi
Nays: None
Abstains: None
Recusals: None
Absent: None
Summary: 7 Yeas; 0 Nays; 0 Abstain; 0 Absent. (Motion passed as Resolution 23-02).

7. NEW BOARD MEMBER INTRODUCTION

Executive Director, Graham Bradner, briefly introduced DCA’s newly appointed Director Miguel Luna and Alternate Director Russell Lefevre. Mr. Bradner conveyed his appreciation for the previous Directors and welcomed the new Board members.

Director Luna added his accolades to the work of Mr. Atwater, whom he has followed the career of for a long time. He stated that he looks forward to working with his Alternate Director and collaborating with the other Directors on the Board.

Alternate Director Lefevre expressed his eagerness to participate as much as possible.

Director Estremera welcomed the new members.

8. APPROVAL OF MINUTES:

a) December 15, 2022 Regular Board Meeting

Recommendation: Approve the December 15, 2022 Regular Board Meeting Minutes

Motion to Approve Minutes from December 15, 2022, as

Noted: Palmer
Second: Anabtawi
Yeas: Palmer, Milobar, Martin, Estremera, Anabtawi
Nays: None
Abstains: Luna, Cheng
Recusals: None
Absent: None
Summary: 5 Yeas; 0 Nays; 2 Abstain; 0 Absent. (Motion passed as MO 23-02-01).

b) January 13, 2023 Special Board Meeting

Recommendation: Approve the January 13, 2023 Special Board Meeting Minutes

Motion to Approve Minutes from January 13, 2023, as

Noted: Martin

Second: Estremera
Yeas: Palmer, Milobar, Martin, Estremera, Anabtawi
Nays: None
Abstains: Luna, Cheng
Recusals: None
Absent: None
Summary: 5 Yeas; 0 Nays; 2 Abstain; 0 Absent. (Motion passed as MO 23-02-02).

9. DISCUSSION ITEMS:

a) New Board Member Spotlight – Miguel Luna

Informational Item

Director Luna introduced himself and provided a brief overview of his background including being an immigrant from Colombia and spending most of his childhood playing in the river which allowed him to develop a kinship with water. When he migrated to Los Angeles, he discovered the LA River and was able to rekindle the kinship he once had with his hometown river. He currently serves on the Metropolitan Water District Board.

Director Luna is excited to collaborate with his fellow DCA Board members on this project while building relationships with them.

President Palmer thanked Director Luna for his presentation and is impressed with his professional background in Diversity, Equity, and Inclusion.

Director Martin welcomed Director Luna to the Board.

Treasurer Katano thanked Mr. Atwater for his service and reminisced on past encounters. She proceeded to welcome the new Board members.

No further comments or questions were received from the Board, nor were any public comment requests received.

b) February DCA Monthly Report

Informational Item

Executive Director, Graham Bradner, presented an overview of the monthly board report. He started with Section 1: Worked Performed, highlighting that staff continues developing, processing, and modifying task orders for the current fiscal year (FY) 22/23 and closing out FY 21/22. He reminded the Board that the DCA extended a few key task orders into the current fiscal year from FY 21/22, which delayed the closeout of FY 21/22. All invoicing associated with last fiscal year are processed and the plan is to submit the final closeout report to the Department of Water Resources (DWR) on March 1st, which will truly mark the completion of FY 21/22. Staff also are beginning activities for next fiscal year 23/24, including budget planning and developing the procurement plan. The DCA Board will meet consecutively in April, May, and June to review the draft budget prior to it being finalized in June.

In regard to Administration, staff continue to provide support for onboarding of staff and Board members, remote meetings and all that is required for the hybrid workplace. There is currently an active procurement for risk management software that staff is working on and expect to continue to work on as it is a very detailed procurement.

On the Engineering front, the team continues to support DWR through the permitting processes by responding to any requests for clarification on the conceptual designs or any of the information that has been provided and evaluated through the impact analysis of the draft Environmental Impact Report (EIR). With the draft EIR public comment period closed, the Engineering team is assisting DWR with reviewing and responding to anything related to the work that the DCA provided relative to the project description and concept engineering quantities. The Engineering team also supports ongoing field work activities such as looking at conditions Delta wide, collecting historical information, and identifying gaps in the overall understanding of conditions. They then work with the investigation team to make sure that the collected data points are collecting the data needed to fill those gaps.

The Fieldwork team is wrapping up documentation from the Spring, Summer, and Fall geotechnical exploration programs from last calendar year, as well as planning the upcoming Spring program for FY 22/23 and Summer and Fall programs for FY 23/24. The DCA did onboard Victoria Garcia from Valley Water to support the geotechnical work now that Damaris Villalobos-Galindo is no longer with the DCA.

Mr. Bradner continued with Section 3: Budget, stating that the DCA has committed just under \$29M of the approved \$31.16M budget through contracts and task orders for FY 22/23, which leaves a little over 2 million in reserve. Staff are narrowing down the current fiscal year projections and figuring out what work needs to be accomplished in the latter half of this fiscal year and where there are underruns. Fieldwork is the main area in which additional funds were moved as there was not a clear idea of the complexity and costs associated with the exploration programs. Although funds are being moved, the overall budget is still within the approved \$31.16M and it is expected that there will still be underruns within the budget.

Ms. Kasaine clarified that they are finishing the last fiscal year and ensuring that the prior year budgets are correctly documented.

Mr. Bradner informed the Board that in August, September, and October there was a bit of a positive variance between the planned versus actuals cash flow. However, in November and December the actuals were very close to the planned cash flow. Mr. Bradner also provided a recap of the previous FY 21/22 budget as it is still being finalized. The actuals amounted to \$18.05M, creating a total underrun of \$3.3M from the original budget of \$21.36M. The cumulative total of the underrun over the last couple of years is roughly \$6.4M.

Lastly, Mr. Bradner went over the program schedule which lays out the previously identified activities on a timeline. All the activities planned are on track with the exception of the project definition reports being that the program is not at a point where the documents can be produced.

Director Cheng expressed his appreciation of the clarity of the finances and schedule that Mr. Bradner provided. He was concerned that the DCA might be foregoing some activities because of the budget underrun. However, the information Mr. Bradner provided gave him comfort that the

savings were achieved not at the expense of any measurable or significant parameters that would move the program. He commended the DCA for keeping things on schedule and on budget.

No further comments or questions were received from the Board, nor were any public comment requests received.

10. STAFF REPORTS AND ANNOUNCEMENTS:

a. General Counsel's Report

DCA General Counsel, Josh Nelson, provided the written report in the Board package. Prior to providing his report, Mr. Nelson echoed some of the sediment from earlier in the meeting and thanked former Director Richard Atwater and former Alternate Director Shane Chapman for their support over the years. He stated that he is very excited for the opportunity to work with Director Luna and Alternate Director Russel Lefevre going forward.

From the written report he highlighted that the end of the AB361 flexible remote meetings is here, absent further clarification from the Governor's Office or applicable and state and local health officials. If the statewide declaration of emergency is rescinded effective at the end of February, the DCA Board of Directors will not be able to use AB361's very flexible format going forward. He reminded the Board that staff is exploring whether the Board could have satellite public locations within the member agencies that would allow Directors who are not able to attend the meeting in Sacramento, able to call in remotely from a satellite location which would be publicly accessible. The current plan would be to figure out which of the member agencies would like the opportunity to host a satellite public location at their board chambers. The location would need to be posted on the agenda so any member of the public who wish to attend along with the remote Directors, can.

President Palmer requested clarification regarding how many Directors need to be in one (1) location.

Mr. Nelson stated that the Board will not need to have a quorum in one (1) meeting location under the statute that the DCA Board of Directors will be meeting under. A quorum is required in one (1) meeting location under the AB2449, which is the reason as to why the DCA has recommended to not meet under AB2449. He also informed the Board that the DCA Board of Directors is able to have meeting locations anywhere within the state of California because the DCA is a statewide joint powers agency (JPA).

Director Adnan Anabtawi asked if Alternate Directors that are not sitting in for their respective Directors during the meeting, must post their remote location as well.

Mr. Nelson stated that the Alternate Director can call in from any location as long as they are not sitting in for their respective Director and voting.

No further comments or questions were received from the Board, nor were any public comment requests received.

b. Treasurer's Report

Prior to her report, DCA Treasurer, Ms. Katano Kasaine, recognized former Alternate Director Shane Chapman for his commitment to the DCA Board of Directors,

She informed the Board that the reports cover December 2023 and January 2023. The beginning cash balance on December 1, 2022 was \$194,615. The DCA received an additional advance funding of \$300K. As of January 31, 2023, the ending cash balance was \$951,675.

Ms. Bernadette Robertson added that the DCA financial transaction report was submitted to the state controller's office.

Director Cheng asked if the \$951,675 balance is awaiting outstanding bills.

Ms. Katano confirmed that the funds are for invoices and items, such as the lease, which need to be paid in a timely manner.

Director Cheng asked if the DCA will need to look into long-term investments in the future.

Ms. Katano informed the Board that it is not necessary at this point but if the DCA acquires bonds in the future, then it is something to look into.

No further comments or questions were received from the Board, nor were any public comment requests received.

c. DWR Environmental Manager's Report

DWR's Environmental Manager, Carrie Buckman, echoed the recognition of former Director Atwater and former Alternate Director Shane Chapman. She then informed the Board that the draft EIR was available for public review in 2022 and the comment period closed in December. There were 700 unique comment letters, which contained approximately 6,000 individual comments. The responses to the comments will be included in the Final EIR expected later this year. Additionally, the Corp of Engineers has released a draft Environmental Impact Statement (EIS) on the federal side under the National Environmental Policy Act (NEPA) and that document is available for public review until March 16, 2023. There is a link included within the Board report regarding the Corp's process which is available on their website. Ms. Buckman went on to explain the differences between the draft EIR and draft EIS, highlighting that there are a lot of similarities between the California process under the California Environmental Quality Act (CEQA) and the federal process under NEPA. The biggest is that they have the same fundamental purpose: to evaluate the potential environmental effects of a proposed project and project alternatives including a new project or as defined by NEPA, a no action alternative. In regard to the Delta Conveyance Project, both environmental documents are evaluating the same proposed project. One of the key differences is the role of the lead agency. DWR is the lead agency because they are a project proponent and are considering whether to implement a project. However, the Corp is not a project proponent, they are regulatory agency, and they have responsibility to determine if they should be issuing permits under their jurisdiction. The decision that is made under these documents is fundamentally different as DWR will be deciding ultimately whether to certify the EIR pursuant to CEQA and then approve and implement the proposed project. The Corp will not be involved in deciding whether the project will move forward and be implemented, they will just decide whether or not they should be issuing permits under their jurisdiction. The EIS does not include elements of the project that are outside of their jurisdiction, generally it focuses on construction related effects and does

not focus on operations effects, which is fully incorporated within the EIR that DWR developed. The draft EIR and EIS occasionally cover different topics because they follow different regulatory processes. The draft EIR evaluated nine (9) project alternatives whereas the draft EIS only evaluates five (5). A link describing more of the similarities and differences of the documents is included in the Board packet.

President Palmer thanked Ms. Buckman for her report.

No further comments or questions were received from the Board, nor were any public comment requests received.

d. Verbal Reports

President Palmer requested clarification regarding the Governor’s statement of streamlining the permitting process.

Ms. Buckman informed the Board that information regarding what will happen is still underway.

No further comments or questions were received from the Board.

11. FUTURE AGENDA ITEMS:

None.

12. ADJOURNMENT:

President Palmer adjourned the meeting at 2:53 p.m., remotely-Conference Access Information: Phone Number: (669) 444-9171, Code: 896 2683 9778, <https://dcdca-org.zoom.us/j/89626839778?from=addon>