

**DSRSD • EBMUD RECYCLED WATER AUTHORITY
(DERWA)
Board of Directors Regular Meeting Minutes
Monday, August 27, 2012**

Dublin San Ramon Services District
7051 Dublin Boulevard, Dublin, California

1. CALL TO ORDER – Chair Vonheeder-Leopold called the DSRSD • EBMUD Recycled Water Authority (DERWA) meeting to order at 6:00 p.m. at the Dublin San Ramon Services District Boardroom.

2. PLEDGE TO THE FLAG

3. ROLL CALL – Directors present: Chair Georgean Vonheeder-Leopold, Vice Chair Frank Mellon, Director Dwight (Pat) Howard and Director Katy Foulkes. DERWA Staff present: James Bewley, Authority Manager; Robert Maddow, General Counsel; and Nancy Gamble Hatfield, Authority Secretary.

4. SPECIAL ANNOUNCEMENTS/ACTIVITIES – Authority Manager Bewley announced that there was an agenda management item. The Summary & Recommendation for Item 8.A noted that the Board would address this item after the Closed Session. However, after further deliberation, Mr. Bewley recommended Item 8.A be delayed until a subsequent meeting.

Chair Vonheeder-Leopold confirmed that Item 8.A would be delayed until a future meeting.

5. PUBLIC COMMENT – 6:02 p.m. – None received.

6. APPROVE MINUTES – Regular Meeting of April 23, 2012

Motion by V.C. Mellon, Second by Director Howard to approve the minutes from the Regular Meeting of *April 23, 2012*. Motion carried (3-0-1) by the following vote:

AYES: Mellon, Howard, Vonheeder-Leopold
NOES:
ABSTAIN: Foulkes

7. CONSENT CALENDAR

A. Treasurer's Report for April 30, May 31, June 30 and July 31, 2012

B. Quarterly Investment Report – June 30, 2012

Motion by V.C. Mellon, Second by Director Foulkes to approve the Consent Calendar.

Chair Vonheeder-Leopold noted that the July 31, 2012 Treasurer's Report seemed to reflect the agency's cash available as overdrawn in the amount of \$85,000.

Authority Manager Bewley confirmed that Chair Vonheeder-Leopold was correct and explained that the EBMUD Treasurer's office manages the short term cash flow for

DERWA. A transfer from a Member Agency may not have been made by the date the Treasurer's Report was generated, thereby reflecting a deficit.

Motion carried (4-0) by the following vote:

AYES: Mellon, Foulkes, Howard, Vonheeder-Leopold

NOES:

8. BOARD BUSINESS

A. Agreement to Provide Recycled Water Treatment and Delivery Services by and between DERWA and the City of Pleasanton

This item was not discussed.

9. MANAGER'S REPORTS

- Contracts Initiated Since the Board Meeting of April 23, 2012 – None.
- Army Corps of Engineers Construction Project Status – The initial two projects for the EBMUD distribution system, also known as Phase 2 3 4, were completed over a year ago and are now closed out. The design of Pump Station R200A and Pipeline IH project was started in 2005 and construction started in 2008, with beneficial occupancy in 2010. In mid-2011, a claim was filed by the contractor and that claim is still in negotiation. The Army solicited assistance from DERWA, which DERWA provided, and the information was used by the Army to prepare their recommendations and negotiations with the contractor. It was anticipated that the negotiations would be completed by December 2011; however, the parties are still negotiating. Authority Manager Bewley noted that there were some federal claims procedural deadlines and asked General Counsel Maddow to comment on these.

General Counsel Maddow reported that the Army's contracting officer had a deadline by which they were supposed to make a decision, and with the contractor's concurrence, that deadline was extended a few times, most recently to May or June. Technically, the contractor now has the right to either go to the Armed Services Board of Contract Appeals for an administrative remedy for its claim or to file suit in the U.S. Court of Federal Claims—which would be a lawsuit solely for money. Often contractors avoid the Armed Services Board of Contract Appeals and prefer the federal court. Earlier this month, nothing had been filed and negotiations were still underway.

Mr. Bewley reported that the most recent email he received a few days earlier stated that nothing has happened because the contractor has been unavailable. It appears the actual deadlines are not firm if the two parties agree to keep conversing. The magnitude of the claim is near \$1.5 million and DERWA staff believes the contractor owes the Army several hundred thousand dollars in liquidated damages beyond the value of the claim.

Mr. Bewley commented that as a side note, credit is given to Major Kaulfers, the Army Corps of Engineers representative, who became involved in this project in 2009 and facilitated the successful completion of the construction phase of the project. He will be promoted to Lieutenant Colonel at a ceremony on August 31.

- Initiation of Consultant Selection Process for Supplemental Water Program – Ground Water Studies Update – DERWA adopted consultant selection guidelines in 1995. In April of this year, the Board received a presentation on the supplemental groundwater project. That project may be organized into several phases. The project team consensus is to prepare a Request for Qualifications (RFQ) with a key qualification focusing on groundwater hydrology experience and the ability to work with the Tri-Valley water and wastewater agencies, as well as possessing an understanding of those dynamics. The RFQ will be issued in the next couple of months. DERWA has invited Zone 7’s involvement to act as a technical advisor and participate in the consultant selection process. Zone 7 will not participate in the decision making, but their advice is desired considering their role in groundwater or surface storage projects. DERWA’s consultant selection guidelines, adopted by motion by the Board September 18, 1995, require the Authority Manager to notify the Board at the start of a consultant selection process for projects with an anticipated consultant budget of greater than \$50,000.
- Confirm Next Meeting Date – October 22, 2012 – After the Closed Session this evening a Special Board meeting may be scheduled before the next Regular Board meeting on October 22, 2012.

10. BOARDMEMBER ITEMS – None.

11. CLOSED SESSION

Before the Board went into Closed Session, General Counsel Maddow announced that the DERWA negotiating team, consisting of chief negotiator and Authority Manager Jim Bewley, DSRSD District Engineer Dave Requa and EBMUD Director of Water and Natural Resources Richard Sykes, would attend.

The Board went into Closed Session at 6:10 p.m.

A. Conference with Real Property Negotiator - Pursuant to Government Code Section 54956.8

Property:	Water Supply Contract
Agency Negotiator:	James B. Bewley, Authority Manager
Negotiating Parties:	City of Pleasanton and DERWA
Under Negotiation:	Price and Terms

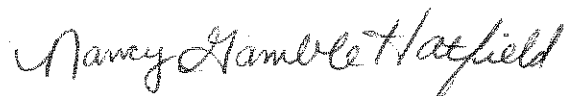
12. REPORTS FROM CLOSED SESSION

At 6:48 p.m. the Board came out of Closed Session. Chair Vonheeder-Leopold announced that there was no reportable action.

13. ADJOURNMENT

Chair Vonheeder-Leopold adjourned the meeting at 6:49 p.m.

Submitted by,



Nancy Gamble Hatfield
Authority Secretary