

**CONTRA COSTA WATER DISTRICT
BOARD OF DIRECTORS
REGULAR MEETING
May 15, 2019**

MINUTES

CALL TO ORDER

President Borba called to order a regular meeting of the Board of Directors of the Contra Costa Water District (District) at 6:32 p.m., at 1331 Concord Avenue, Concord, the regular meeting place of the Board.

ROLL CALL

<i>Directors Present:</i>	Lisa M. Borba, President Ernesto A. Avila Bette Boatman John A. Burgh
<i>Directors Absent:</i>	Connstance Holdaway, Vice President
<i>General Manager:</i>	Jerry Brown
<i>Legal Counsel:</i>	Douglas E. Coty
<i>District Secretary:</i>	Mary A. Neher

PLEDGE OF ALLEGIANCE

Director Burgh led the pledge of allegiance.

ADOPTION OF AGENDA

There were no changes to the agenda, and the Board adopted the agenda by rule.

PUBLIC COMMENT (Please observe a three-minute time limit)

President Borba asked for public comments.

Dan Jones, Associate Engineer, said he has worked for the District for 12 years and is a member of Local 21. He reviewed the 2011 side letter between the District and Local 21 where members agreed to contribute to the other post-employment benefits (OPEB) program, and the terms remained unchanged after 2015 contract negotiations. In 2016 the District wanted to move to CalPers health care, which had different health care plans than the 2015 contract negotiations.

Local 21 was told there was not adequate time to determine potential OPEB impacts from moving to CalPers. The District and Local 21 executed a side letter addressing the move to CalPers health plans, and an excerpt regarding employees retiring from the District and OPEB refunds was read. When the first employee to request an OPEB refund occurred in June 2018, the District said employees retiring within 120 days of separation would either forfeit their OPEB contribution balance or defer their retirement by 120 days, which means losing about four months of earned pension income. The District's interpretation results in a significant financial concession to employees that was neither discussed nor negotiated with the union. Local 21 and Local 39 unions and their legal counsels disagree with this legal opinion and have asked the District to join with the unions to request an Internal Revenue Service (IRS) private letter ruling on the issue. The District denied the request and told the unions it had no interest in pursuing the matter further. The Local 21 members ask for the Board to reconsider the request to get an IRS private letter ruling. He thanked the Board for its time.

Michael Rainsford, Business Representative for Local 39, said the Local 39 members have contributed over \$3 million into OPEB and the cost for the private letter ruling was small compared to the potential financial impact to members. The District's OPEB fund is now nearly 70% funded even though it had 30 years to do so. Local 39 members do not want retiring employees, who will not use this benefit, to be forced to forfeit OPEB contributions or give up four months of pension payments. Local 39 members ask for the District to work with the unions to get the IRS private letter ruling. The unions want to find a solution that does not take pension payments or OPEB contribution refunds from employees. He asked the District to agree to move forward with the IRS private letter ruling process. He thanked the Board for its time.

Troy Ibbeson, Treatment Plant Operator at Bollman Water Treatment Plant, Local 39 shop steward, and Retirement Committee and OPEB Committee representative, said he wants to find a positive resolution. Local 39 members stepped up to contribute into OPEB and continue to make their contributions. Now that a problem has arisen from the health care change, he asked the Board to support the District's working with the unions to find a positive solution. In response to Director Boatman, Mr. Ibbeson said the two unions represented the majority of District employees. He thanked the Board for the District's contributions to the retirement and OPEB plan funds and for its time.

Matthew Underwood, Crew Leader, Field, said he has worked at the District for 13 years and contributed to OPEB. He acknowledged the cost to request the IRS private letter ruling was substantial at \$30,000. He believes it is a reasonable request, as many people spend their entire careers dedicating their lives and providing extra service working for the District. He asked the Board to do the right thing and thanked the Board for its time.

Brian Jackson, Purchasing Officer, said he has worked at the District for four years and contributed to OPEB. He said he receives 100% of his and his wife's medical and dental through the government, as a retired military veteran, and has never planned to use OPEB. He was told that OPEB was a mandatory contribution program when he considered employment at the District and that at some point when he retired he would receive his contributions back plus 5%

interest. He hopes that a better way to move forward is identified for everyone. He thanked the Board.

Cristina Estrella, Assistant Engineer, said she has worked at the District for about five years and is a member of Local 21. Many of the Local 21 members are concerned about the current implementation of the contributions and potential negative impacts to several of its members, whether they are retired military veterans, have spouses already in the CalPers program, or spouses in the CalPers program also working at the District. On behalf of the Local 21 members, who have potential impacts under the current program implementation, she asked the Board to reconsider requesting the IRS private letter ruling. She thanked the Board.

Donna Grimes, Administrative Secretary and Local 21 member, said she has worked at the District for about 27 years, has contributed to OPEB, and continues to contribute every pay period. Her husband, who is retired, has CalPers health care through a different employer. She is on his plan and is not eligible for individual coverage through the District due to the CalPers double coverage restriction. When the District moved to the CalPers health plan, she was informed she would be refunded her OPEB contributions per the terms of the 2011 side letter with Local 21 and that the double coverage restriction would not negatively impact her. In June 2018 when she began the retirement process, she was told that if she retired without the individual health care coverage she would forfeit either her OPEB contributions or had to wait four-months to begin receiving her pension. She contributed to her pension and OPEB, was promised both, and deserved both. She said that management said it would leave no stone unturned to try to find a solution to this problem. She requested for the District to move forward regarding the IRS private letter ruling and continue to work to solve this problem. She thanked the Board.

Jeff Duritz, Local 21 Representative, provided the Board with a letter from Bob Eagle, Conservation Specialist and CCWD Local 21 Chapter President, as Mr. Eagle was unable to attend the meeting due to a business conflict (Attached). Mr. Duritz said Local 21's legal counsel does not agree with the District's legal counsel opinion that refunding OPEB contributions would trigger the IRS's constructive receipt doctrine. With the varying legal opinions of how the IRS may rule regarding this matter, the next logical step would be to find out what the IRS would do by requesting an IRS private letter ruling. There is a much higher chance to get the IRS to respond to the request if the unions and the District make it together. Local 21 legal counsel can work with District legal counsel to prepare the request, as outlined in the February 4, 2019 letter from Local 21. The IRS private letter ruling would remove the speculation and provide an answer. Local 21 and Local 39 members have contributed approximately \$5 million to OPEB, and everyone wants OPEB to be robustly funded and available to retirees who need it. Although the request will cost the District a lot of money, the Local 21 members impacted by this matter are at risk of forfeiting significantly more funds on a per person basis. He asked the Board members to think about they would feel having to personally forfeit this amount of money. The next step is to request the IRS private letter ruling. He hoped the Board would be able to provide a response to the union's request by the next Board meeting. He thanked the Board.

The Board thanked everyone for their comments. President Borba asked if there were any additional public comments. There were none.

Director Boatmun moved to have this matter added to the next Board meeting. President Borba requested Mr. Coty to provide guidance to the Board regarding the process. In response to public comment, Mr. Coty said the Board may either pass a matter along to staff or ask for the item to be agenzized at an upcoming meeting of the Board, Retirement Committee, or OPEB Committee for further discussion. Director Boatmun moved that the matter be brought to the Board at an upcoming Board Meeting, Director Avila seconded, and the remaining Directors concurred.

CONSENT CALENDAR

1. Approve Directors' Service/Business and Travel Expenses
 - a. Future Services – May/June 2019
 - b. Expenses – April 2019
 - c. Compensation – April 2019
2. Approve April 17, 2019 meeting minutes.
3. Approve the warrant register dated May 16, 2019.
4. Authorize agreement for bill data processing, printing, and mailing services
 - a. Authorize a budget transfer in the amount of \$190,000 from the FY20 Finance Department postage budget to the FY20 Finance Department professional services budget; and
 - b. Authorize execution of an agreement with Infosend for bill data processing, printing, and mailing services in an amount not to exceed \$300,000 in FY20, with the option to extend the agreement for a second and third year in amounts not to exceed the FY21 and FY22 budgets as adopted.
5. Authorize agreement with Olberding Environmental for environmental consulting services in the amount of \$100,000 in FY19 with an option for continued services in the amount of \$216,000 in FY20, for a total amount not to exceed \$316,000.

President Borba asked if anyone wanted to remove an item from the consent calendar to be separately considered. No items were removed.

President Borba asked for Board questions and comments. There were none.

President Borba asked for public comments. There were none.

MOTION: Boatmun/Burgh to approve the consent calendar. The motion was approved by voice vote (Ayes: Avila, Borba, Boatmun, Burgh; Absent: Holdaway).

ACTION

6. Authorize execution of an agreement with Wiley, Price & Radulovich to provide employment and labor law special counsel services in an amount not to exceed \$144,000 in FY20, \$149,000 in FY21, and \$154,000 in FY22.

Mr. Brown explained the matter was included as an action item because the agreement was with legal counsel to the Board.

President Borba asked the Board for questions and comments. The Board recognized the good work done by Wiley, Price & Radulovich.

President Borba asked for public comments. There were none.

MOTION: Boatmun/Avila to authorize execution of an agreement with Wiley, Price & Radulovich to provide employment and labor law special counsel services in an amount not to exceed \$144,000 in FY20, \$149,000 in FY21, and \$154,000 in FY22. The motion was approved by voice vote (Ayes: Avila, Borba, Boatmun, Burgh; Absent: Holdaway).

7. Authorize a construction and repair services task for the Terra Lane Main Replacement Project
 - a. Authorize an amendment to the Construction and Repair Services FY19 agreement authority with Con-Quest Contractors, Inc. in the amount of \$373,010 for a revised FY19 agreement total not to exceed \$3,715,180; and
 - b. Authorize execution of a task order in the Construction and Repair Services agreement with Con-Quest Contractors, Inc. for the Terra Lane Main Replacement Project in an amount of \$373,010.

Mr. Brown said the matter was an action item due to the total contract authority and there was no controversy regarding the amendment.

President Borba asked for Board questions and comments. The Board was glad to see the continued work on main repairs and replacements.

President Borba asked for public comments. There were none.

MOTION: Boatmun/Burgh to authorize an amendment to the Construction and Repair Services FY19 agreement authority with Con-Quest Contractors, Inc. in the amount of \$373,010 for a revised FY19 agreement total not to exceed \$3,715,180; and authorize execution of a task order in the Construction and Repair Services agreement with Con-Quest Contractors, Inc. for the Terra Lane Main Replacement Project in an amount of \$373,010. The motion was approved by voice vote (Ayes: Avila, Borba, Boatmun, Burgh; Absent: Holdaway).

DISCUSSION AND INFORMATION

8. Receive report and comment on the Concord Community Reuse Project – Water Demand Update.

Director of Planning Jeff Quimby provided the background of the Concord Naval Weapons Station (CNWS Project) Inland Area that is included in the Concord Community Reuse Project. Updates on the process to convert the CNWS to civilian uses and work completed by the City of Concord were provided. The District 2010 Water Supply Assessment certified for the CNWS Project was reviewed. A review of the 2018-2019 land specific plan was provided. In response to Director Burgh, staff explained that multi-family podium residence meant it was multiple story with an elevator and that multi-family walk-up residence did not have an elevator.

The updated specific plan water demand estimates for indoor and outdoor use were provided, which did include recycled water. In response to Director Avila, staff explained that recycled water was approximately 30-40% of the total water demand estimate. The District received a will serve letter in 2010 for recycle water from Central Contra Costa Sanitary District (Central San). The District is anticipated to be the recycled water provider to the CNWS Project and will develop regulations and requirements for recycled water use. The District plans to require recycled water beginning in Phase I of the CNWS Project and is working with the City of Concord and developer.

The CNWS Project schedule was reviewed.

Director Avila asked if District staff will be provided special training regarding recycled water, and staff confirmed that was correct. The District already performs maintenance for Central San on some of its recycled water system. The District will review the specific water demand when it reviews the environmental documents in the fall of 2019. In response to Director Boatman, the storm and waste water issues will be discussed with the East Bay Regional Park District and City of Concord. In response to President Borba, the next update to the District's Urban Water Management Plan is scheduled for 2020.

President Borba asked for the Board for additional comments and questions. There were none.

President Borba asked for public comments. There were none.

The Board acknowledged receipt of the Concord Community Reuse Project update and thanked staff.

REPORTS FOR DISCUSSION

9. Future meeting dates and times.

No items were added.

REPORTS

10. General Manager

Mr. Brown reported that the rating agencies had reaffirmed the District's credit ratings, and the District refinancing matters approved by the Board on May 1, 2019 will move forward.

11. Legal Counsel

Mr. Coty reported action taken by the Department of Water Resources (DWR) on May 2, which included withdrawal of its petition with the State Water Board regarding water rights changes related to the California WaterFix Project. A summary of the various actions taken by DWR was provided that aggregated effect of the actions did essentially strip all of the formal approvals of the two-tunnel WaterFix Project. Pending litigations regarding the two-tunnel WaterFix Project will likely begin to be voluntarily withdrawn by plaintiffs in the coming weeks. In response to Director Avila, Mr. Coty noted that the District's settlement agreement was carefully developed to cover any DWR projects including northern intakes and a Delta conveyance. The District has not heard anything from DWR to indicate disagreement with this position. In response to President Borba, Mr. Coty stated that the project proponents continue to move forward, and DWR will restart the California Environment Quality Act process, with a project to be determined. In response to Director Avila, staff explained that the change will probably smooth the process for a one-tunnel Water-Fix Project and allow the project to move more quickly than previously.

12. Board Members

Director Avila reported that he had attended the Association of California Water (ACWA) 2019 Spring Conference on May 7-9, which included meetings with potential Los Vaqueros Reservoir Expansion Project partners.

Director Burgh reported that he had attended the ACWA 2019 Spring Conference on May 7-9. He was glad that the Retirement and OPEB trust funds investment returns beat the benchmarks, which was beneficial to everyone.

Director Boatmun reported that she had attended the ACWA-Joint Powers Insurance Authority (JPIA) 2019 Spring Conference on May 6 and the ACWA 2019 Spring Conference on May 7-10. A meeting of the ACWA Business Development Committee may be scheduled on May 30. In response to Director Burgh, Director Boatmun explained that the Captive Insurance Company was an investment engine being considered by ACWA-JPIA.

President Borba reported that she met with Mr. Brown on May 7 and 14. She attended the ACWA 2019 Spring Conference May 7-9.

CLOSED SESSION

13. Consideration of initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (one case)

At 7:46 p.m. President Borba announced that the Board would move into a closed session to consider initiation of litigation and was not required to announce additional participants.

REPORT ON CLOSED SESSION

14. Report out on closed session.

At 8:35 p.m. President Borba announced that the Board did not take a reportable action during the closed session.

ADJOURNMENT


At 8:36 p.m., President Borba adjourned the meeting in memory of former Pleasant Hill Councilmember Paul Cooper.

The next regular meeting of the Board of Directors will be on June 5, 2019 commencing at 6:30 p.m. in the Board Room located at 1331 Concord Avenue in Concord.



Lisa M. Borba, President

Attest:



Mary A. Neher, District Secretary