

MINUTES
MEETING OF THE CENTRAL VALLEY FLOOD PROTECTION BOARD
May 10, 2013

NOTE: THE BOARD WILL CONSIDER TIMED ITEMS AS CLOSE AS POSSIBLE TO THE LISTED TIME, BUT NOT BEFORE THE TIME SPECIFIED. UNTIMED ITEMS MAY BE HEARD IN ANY ORDER. MINUTES ARE PRESENTED IN AGENDA ORDER, THOUGH ITEMS WERE NOT NECESSARILY HEARD IN THAT ORDER.

A regular meeting of the Central Valley Flood Protection Board was held on May 10, 2013, beginning at 9:05 a.m. in The Bonderson Building Cafeteria, 901 P Street, Sacramento, California.

The Members of the Board:

Mr. William H. (Bill) Edgar, President
Ms. Emma Suarez, Vice President
Ms. Jane Dolan, Secretary
Mr. Joe Countryman
Mr. Clyde Macdonald
Mr. Tim Ramirez
Mr. Mike Villines

The following members of the Board staff were present:

Mr. Jay Punia, Executive Officer
Mr. Len Marino, Chief Engineer
Mr. Eric Butler, Supervising Engineer
Ms. Nancy Moricz, Senior Engineer
Ms. Deborah Smith, Legal Counsel
Ms. Amber Woertink, Staff Assistant
Mr. Michael Wright, Senior Engineer

Department of Water Resources (DWR) staff present:

Ms. Laura Hollender, Staff Counsel
Mr. Noel Lerner, Chief, Flood Maintenance Office
Mr. Mark List, Supervising Engineer
Mr. David Pesavento, Chief, Flood Project Inspection Section
Ms. Kasey Schimke, Assistant Director
Ms. Terri Wegener, Supervising Engineer
Mr. Kent Zenobia, Chief, Project Delivery Branch

Also Present (continued):

Ms. Meegan Nagy, the United States Army Corps of Engineers (the Corps)
Mr. Jason Needham, the Corps
Ms. Susan Schohr

1. ROLL CALL

Executive Officer Jay Punia called the roll and a quorum was achieved.

2. APPROVAL OF AGENDA

Upon motion by Secretary Dolan, seconded by Board Member Countryman, the Board unanimously approved the Agenda as printed.

3. PUBLIC COMMENTS - None

4. U.S. ARMY CORPS OF ENGINEERS (USACE or THE CORPS) BRIEFING

USACE presentation of how Corps programs (inspections and assessments) and FEMA certification requirements are different; and the ongoing efforts to better align them through the USACE/FEMA Accreditation Task Force.

Mr. Jason Needham, Corps' Risk Management Center and member of the FEMA/Corps Flood Protection Structure Accreditation Task Force, gave the presentation and answered Board Member and staff questions.

Corps Levee Inspection Results:

- Maintenance Area (MA) 13, Unit 1 – Cherokee Canal Right Bank
- MA 13, Unit 2, -- North Cherokee Canal Left Bank
- MA 13, Unit 2 – South Cherokee Canal Left Bank
- Sacramento River East Levee – LD3, Glenn County

Ms. Meegan Nagy, the Corps, gave the presentation. She noted that all four inspections resulted in unacceptable/inactive status. She also commented that the Corps plans to publicly announce, via the newspaper, when areas fail inspection but also when they subsequently make corrections and pass.

Ms. Susan Schohr, Cherokee-area resident, asked questions about elements of the levee inspections.

5. REPORT OF ACTIVITIES OF THE EXECUTIVE OFFICER

Mr. Len Marino, Board Chief Engineer, gave the Report and answered Board Member questions. Some highlights:

- Ms. Nancy Moricz, Board staff, was promoted to the rank of Senior Engineer.
- Central Valley Flood Protection Plan (CVFPP) had a kickoff meeting on May 2 for the Basin-wide Feasibilities Studies in West Sacramento.
- CVFPP Rural Levee Repair Work Group met earlier this week and is scheduled to meet twice a month for the near future.
- Mr. Marino attended the Upper San Joaquin River Regional Flood Management Planning Group.
- The San Joaquin River Restoration Program flood agency representatives had a meeting with their counterparts at the U.S. Bureau of Reclamation.
- The first bridge project applications are in staff review and scheduled to come before the Board's Consent Calendar in May, with the remainder coming in June.
- Board staff has not heard from nor received applications from the California High-Speed Rail Authority, but anticipate that will happen in the near future.
- Sutter Buttes Flood Control Agency (SBFCA) will conduct briefings and a permit hearing at their May 24 meeting.
- The West Sacramento Flood Control Agency Southport levee will bring a 408 request to the Board at the July or August Board meetings.
- Board staff is reporting out this month on the Yolo Bypass Salmon Habitat Restoration Fish Passage Project, the Small Erosion Repair Program, the San Joaquin River Restoration Interim Flows Project, and the Seepage Management Plan. Many other projects are in review and there will be more updates next month.

Mr. Michael Wright, Board Enforcement Section Chief, gave the enforcement report and answered Board Member questions.

6. REQUESTED ACTIONS

A. Senate Bill 753, An Act to Amend the Water Code Relating to Flood Protection

Consider the status of, modifications to, and other actions related to legislation approved by the Board for the legislature's consideration to broaden the Board's

authority, primarily related to encroachment permitting and enforcement including the authority to issue administrative fines for uncorrected code violations.

President Edgar noted that this is an informational item. The bill is now at the Legislative Counsel's office.

Board Member Macdonald provided the specifics on where the bill is now in the legislative process.

The Board deliberated on whether or not to include a bill amendment adding liens as a potential enforcement action.

*Upon **motion** by Vice President Suarez, seconded by Board Member Villines, the Board unanimously agreed to authorize President Edgar and Board Members Villines and Macdonald the ability to include liens as a bill amendment; however, before doing so the full Board will discuss the possibility further with the stakeholders to ensure that everyone is on board with the idea.*

The Board deliberated on whether or not to propose emergency regulations as an attachment to the regulations already included in the bill. President Edgar directed Board staff to look further into the possibility and report back to the Board.

President Edgar commented that this bill is essentially a streamlining and modernization bill; it is not a budget bill. There will be additional upfront cost to implement the regulations but in the long term the bill will save the State money by shifting costs from the State's general fund to the local violators and the Local Maintenance Agencies (LMAs), who will be helping the Board do its' enforcement work.

B. Employment of Legal Counsel

1. Discussion and approval of the Board's employment of Legal Counsel, including the organization and reporting relationship of Legal Counsel to the Board.

President Edgar recommended that the Board deal with the first policy issue today and then refer the matter of hiring process (B2 below) to the Executive Committee, who would then work with staff, prepare a revised report, and come back to the Board for approval.

Executive Officer Punia stated the staff recommendation that the new legal counsel should report to the Executive Officer and then work with the Executive Officer and the Board.

The Board deliberated extensively about whether the new legal counsel should report to the Executive Officer or directly to the Board.

Vice President Suarez commented that, at the end of the day, who does the Board want to review the performance of the attorney? Should it be done by the Board, based on the quality of advice and availability, or by the Executive Officer who, in turn, will probably dictate how the new hire operates on a daily basis?

Current Legal Counsel Deborah Smith stated that the Board is the client, and recommended that the new counsel report to the Board. The Board would then delegate the day-to-day activities of the new hire to the Executive Officer. The Board would do performance evaluations, but with input from the Executive Officer.

President Edgar remarked that, in his opinion, the Board should retain the attorney. The Board essentially has two clients, Board staff and the Board itself. The new hire would work on a daily basis to advise the Board on various items—conflict of interest, due process, agenda items, etc., and would work closely with Board staff. The Board attorney would obviously have a conflict when it came to enforcement, which would be handled by a different attorney, probably from DWR.

Upon motion by Secretary Dolan, seconded by Board Member Macdonald, the Board agreed by a 6-1 vote (Suarez) to hire the attorney directly and have the attorney answer to the Board, with the further understanding that the day-to-day job aspects and functions of the new hire will be delegated to the Executive Officer.

2. Discussion and approval of the hiring process for the employment of Legal Counsel.

Upon motion by Secretary Dolan, seconded by Board Member Macdonald, the Board unanimously voted to delegate the specifics of the hiring process to the Executive Committee, which will work out the details involved and then come back to the Board for approval of those details.

7. INFORMATIONAL BRIEFING

A. The California's Flood Future Report presents information and recommendations about statewide flood risk and is provided to help inform future decisions about policies and investments.

Mr. Terri Wegener, DWR Supervising Engineer, provided the briefing.

B. DWR Briefing on 2013-14 Legislation.

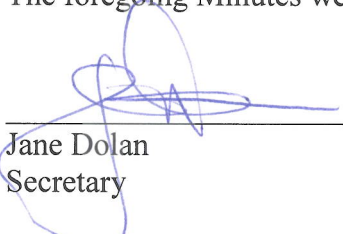
Mr. Kasey Schimke, DWR Assistant Director of Legislative Affairs, provided the briefing.

8. ADJOURN-REGULAR BOARD MEETING

The Board unanimously adjourned the Open Session at 12:31 p.m.

Dated: July 26, 2013

The foregoing Minutes were approved:



Jane Dolan
Secretary



William H. Edgar
President