

**CONTRA COSTA WATER DISTRICT
BOARD OF DIRECTORS
REGULAR MEETING
June 17, 2020**

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. Pursuant to Governor Newsom's Executive Orders, some Directors participated remotely. The meeting facilitation procedure was provided.

ROLL CALL

Directors Present:	Lisa M. Borba, President Connstance Holdaway, Vice President Ernesto A. Avila Bette Boatmun John A. Burgh
Directors Absent:	None
General Manager:	Stephen J. Welch
Legal Counsel:	Douglas E. Coty
District Secretary	Mary A. Neher
Executive Management Analyst	Jamie Elsberry

PLEDGE OF ALLEGIANCE

Vice President Holdaway led the pledge of allegiance.

ADOPTION OF AGENDA

Mr. Coty announced that since the posting of the agenda, a matter has arisen that in the opinion of legal counsel requires the immediate attention of the Board of Directors. Pursuant to Government Code sections 54956.9(e)(4) and 54954.2(b), the Board may consider adding a closed session item to this agenda in order to receive a report from legal counsel related to a matter of anticipated litigation. The Board may add a closed session pursuant to Government Code Section 54954.2(b) if four members of the Board agree to do so.

MOTION: Boatmun/Burgh to add a closed session matter, Agenda Item No. 19 – to add this matter to the agenda for discussion in closed session pursuant to paragraph (2) of subdivision (d) of Section 54956.9: (one case). The motion was approved by roll-call vote (Ayes: Avila, Boatmun, Borba, Burgh, Holdaway; Noes: none; Abstain: none; Absent: none).

The Board adopted the revised agenda by rule.

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

President Borba asked for public comments.

Ms. Victoria Adams, President of the East County Branch of the National Association for the Advancement of Colored People (NAACP), reviewed a District employee complaint. The written statement is attached to these minutes. President Borba confirmed receipt of a complaint sent to her at her place of business and had forwarded it to Mr. Welch as requested. The complaint is being reviewed by staff, and the Board is committed to hearing employee concerns. President Borba expressed appreciation for the work done by Ms. Adams and thanked her for speaking with the Board on this matter. Employees and members of the public were encouraged to participate in Board meetings.

CONSENT CALENDAR

1. Approve Directors' Service/Business and Travel Expenses
 - a. Future Services – June/July 2020
 - b. Expenses – May 2020
 - c. Compensation – May 2020
2. Approval of May 20, 2020 meeting minutes.
3. Approve the warrant register dated June 18, 2020.
4. Authorize execution of an agreement with Badger Daylighting Inc. for potholing services in the amount of \$100,000 in FY21, with an option for continued services in the amount of \$83,000 in FY22, for a total amount not to exceed \$183,000.
5. Authorize execution of an agreement with LCC Engineering & Surveying Inc. for surveying services in the amount of \$294,000 in FY21, with an option for continued services in the amount of \$172,000 in FY22, for a total amount not to exceed \$466,000.
6. Authorize an amendment of the Control Systems Integration Services Agreement with TJC and Associates, Inc. for \$100,000 for July 1 through December 31, 2020, for an amended agreement total not to exceed \$509,000.

President Borba asked if anyone wanted to remove an item from the consent calendar to be separately considered. No items were removed for separate consideration. President Borba requested for the Board to provide comments and questions. There were none. President Borba asked for public comments. There were none.

MOTION: Boatmun/Holdaway to approve the consent calendar. The motion was approved by roll-call vote (Ayes: Avila, Boatmun, Borba, Burgh, Holdaway; Noes: None; Abstain: None; Absent: None).

ACTION

7. Authorize an amendment to the technical services agreement with Con-Quest Contractors, Inc. for Pipeline Construction and Repair Services in the amount of \$750,000 in FY21 for a revised agreement total not to exceed \$10,001,626.

Engineering Design Division Manager – Interim Peter Stabb reviewed the pipeline construction and repair services (PCRS) pilot test included in the Pipeline Renewal and Replacement Program for FY19 and FY20. Con-Quest Contractors, Inc. (Con-Quest) was awarded the FY19 and FY20 PCRS contract, and there were four additional priority pipeline projects added through subsequent amendments. The 20 projects included in the two-year contract, totaling approximately \$9.2 million, were reviewed. The benefits from the PCRS process compared to the previous design-bid-build process were provided, which included increased pipeline replacements, increased efficiencies, and reduced costs.

The FY21 budget has been fully allocated to planned main replacement projects. FY21 authority in the amount of \$750,000 is needed for emergency and unplanned work; given the low value of this potential work there is anticipated to be minimal contractor interest in a competitive procurement. As Con-Quest has completed a significant amount of work for the District and has become familiar with the District's processes and procedures during critical infrastructure repairs, follows high safety standards, and has maintained a good relationship with the public, it is recommended to authorize an amendment with Con-Quest to provide the emergency and unplanned PCRS in FY21. The PCRS is set to be competitively bid for FY22.

President Borba asked for Board comments. Staff explained the difference between unused contract authority versus a rebudget. The Board spoke in favor of the PCRS program and the work done by Con-Quest.

President Borba asked for Public Comments. There were none.

MOTION: Boatman/Holdaway to authorize an amendment to the technical services agreement with Con-Quest Contractors, Inc. for Pipeline Construction and Repair Services in the amount of \$750,000 in FY21 for a revised agreement total not to exceed \$10,001,626. The motion was approved by roll-call vote (Ayes: Avila, Boatman, Borba, Burgh, Holdaway; Noes: None; Abstain: None; Absent: None).

8. Authorize execution of an agreement with Bold, Polisner, Maddow, Nelson & Judson for general and project-related legal services not to exceed \$1,362,600 for FY21 and \$1,033,700 for FY22.

Mr. Coty recused himself from the discussion and requested that his microphone be muted because the matter pertains to a contract with his law firm.

Mr. Welch reviewed the two-year agreement. The contract amount for FY21 is larger due to the capital work anticipated for both Los Vaqueros Reservoir Expansion Phase 2 and the Contra Costa Canal Title Transfer projects. The FY22 contract amount is lower to reflect the different work needed during that fiscal year.

President Borba asked for Board comments. There were none. President Borba asked for Public Comment. In response to Ms. Adams requests about law firm selection, President Borba reviewed the information available on the website that is linked in the meeting agenda. Staff explained that Bold, Polisner, Maddow, Nelson & Judson (BPMNJ) firm has worked with the District almost since the District's inception. This is a sole source agreement award due to the firm's performance, specialized knowledge of the water industry and the Contra Costa Water District, and cost-effective rates. The District's website includes a bid procurement section where competitively bid projects are posted. Due to the complexity of water issues, it is typical for water agencies to retain the same legal counsel or to have an internal legal counsel. The Board supported the contract and discussed higher legal counsel rates paid by other businesses for similarly provided legal services.

MOTION: Boatmun/Holdaway to authorize execution of an agreement with Bold, Polisner, Maddow, Nelson & Judson for general and project-related legal services not to exceed \$1,362,600 for FY21 and \$1,033,700 for FY22. The motion was approved by roll-call vote (Ayes: Avila, Boatmun, Borba, Burgh, Holdaway; Noes: None; Abstain: None; Absent: None).

9. Adopt Resolution No. 20-010 certifying the revenue required to be provided by taxes on land within the District during fiscal year 2021.

Mr. Welch reviewed the background for the Contra Costa County (County) land levy tax assessment, which is estimated to be \$736,000 for FY21, based upon the federal government obligation included in the District's Central Valley Project contract with the Bureau of Reclamation for portions of the Contra Costa Canal System. The County requires an annual Board resolution to certify the revenue requirement for the upcoming fiscal year.

President Borba asked for Board comments. There were none. President Borba asked for Public Comments. There were none.

MOTION: Boatmun/Holdaway to adopt Resolution No. 20-010 certifying the revenue required to be provided by taxes on land within the District during fiscal year 2021. The motion was approved by roll-call vote (Ayes: Avila, Boatmun, Borba, Burgh, Holdaway; Noes: None; Abstain: None; Absent: None).

10. Authorize an increase in the FY20 authority for water treatment chemicals in the amount of \$234,827 for a revised total not to exceed \$2,570,000.

Mr. Welch explained that there was a lower amount of precipitation last fall through early this spring that has reduced the water quality in the Delta. Due the higher than anticipated water demands at this time and the pending end of the fiscal year, the District will need to purchase the necessary additional water treatment chemicals to meet the increased water demand.

President Borba asked for Board comments. There were none. President Borba asked for Public Comments. There were none. The Board reviewed the increase in treated water use with more people at home because of the COVID-19 pandemic.

MOTION: Avila/Boatmun to authorize an increase in the FY20 authority for water treatment chemicals in the amount of \$234,827 for a revised total not to exceed \$2,570,000. The motion was approved by roll-call vote (Ayes: Avila, Boatmun, Borba, Burgh, Holdaway; Noes: None; Abstain: None; Absent: None).

11. Approval of the FY21-FY22 Budget
 - a. Adopt Resolution No. 20-011 approving the FY21 and FY22 budget totaling \$388,427,802, including rebudgets not to exceed \$14,225,900 from the FY20 capital budget; and
 - b. Authorize the extension, through FY21 and FY22, of all FY20 contracts related to the rebudgeted capital projects.

Director of Finance Lizz Cook provided an overview of the FY21 and FY22 budget that was reviewed by the Board on May 20, 2020 and the Drought Reserve Fund management reviewed by the Board on June 3, 2020. The budget does not currently include COVID-19 impacts due to the uncertainty surrounding the duration and severity of the pandemic. Water sales are projected to be lower than the 2021 Capital Improvement Program and Ten-Year Financial Plan. The balancing approach used to develop the budget was reviewed. Staff

confirmed the FY21 funding of the Drought Reserve Fund would be revisited during quarterly financial reviews. The budgets for FY20, FY21, and FY22 were compared and reviewed.

Due to COVID-19 impacts, permitting delays, and unforeseen complications, staff is requesting to rebudget up to \$14.2 million of capital project funds into FY21 to allow for the continuation/completion 16 capital projects from FY20. The final rebudget amount will be included in the FY20 year-end financial results reported out to the Board. The Board comments provided on May 20, 2020 were included in the final budget, which were reviewed. Due to the COVID-19 uncertainties, the Board will be provided with quarterly financial updates in FY21, which will provide opportunities to consider budget adjustments, if necessary.

President Borba asked for Board comments. Staff confirmed there has been an increase in the number of bill payments that have gone over 180 days, which is less than 5% of the water sales total. The District continues to closely watch delinquent accounts and noted that 95% of the bill payments are being made on time. A discussion ensued regarding the various payment programs available to customers.

President Borba asked for Public Comments. There were none. Mr. Welch thanked the Board for approving the budget and for its support in getting good work done for the District's customers.

MOTION: Holdaway/Boatmun to adopt Resolution No. 20-011 approving the FY21 and FY22 budget totaling \$388,427,802, including rebudgets not to exceed \$14,225,900 from the FY20 capital budget; and authorize the extension, through FY21 and FY22, of all FY20 contracts related to the rebudgeted capital projects. The motion was approved by roll-call vote (Ayes: Avila, Boatmun, Borba, Burgh, Holdaway; Noes: None; Abstain: None; Absent: None).

12. Receive update and approve continuation of the local emergency, as declared in Contra Costa Water District Resolution No. 20-003, resulting from the COVID-19 pandemic.

Mr. Welch provided an update on Phase 3 of the Safe Return to Work Plan (Phase 3 SRTW Plan) that will return office workers into the workplace. The draft of the plan has been provided to the bargaining units for input. Mr. Welch requested for the emergency declaration authority to be continued to allow for the completion of the Phase 3 SRTW Plan. The estimated termination of the emergency declaration will likely occur in July.

President Borba asked for Board comments. Director Boatmun asked about daily health checks of employees before reporting to work, the legality of COVID-19 release forms, and COVID-19 options available to staff. Staff confirmed there was already a health check completed by staff before reporting to work, as well as a process for possible COVID-19 exposure, testing, and communications for staff. The July 1 COVID-19 report will include more information regarding the legality of release forms for public agencies. President Borba asked for Public Comments. There were none.

MOTION: Holdaway/Burgh to receive update and approve continuation of the local emergency, as declared in Contra Costa Water District Resolution No. 20-003, resulting from the COVID-19 pandemic. The motion was approved by roll-call vote (Ayes: Avila, Boatmun, Borba, Burgh, Holdaway; Noes: None; Abstain: None; Absent: None).

DISCUSSION AND INFORMATION

13. Receive update on legislative affairs.

Director of Public Affairs Jennifer Allen provided the report. Due to closures at the state Capitol in response to COVID-19, only the highest priority bills have been taken to committee hearings. The state budget was passed by legislators on June 15, 2020 and was passed onto Governor Newsom. Additional negotiations between the legislators and the Governor are expected to close the gaps between the budget that passed and the Governor's May revise. The District will monitor for budget cuts that may directly impact the District or programs of interest to the District. A climate resiliency bond is still being discussed for the November ballot, and the Board will be updated on changes to the bond. SB 1386, which addresses Proposition 218 concerns regarding fire flows, was passed off the Senate floor last week and is moving to the Assembly for approval. The District continues to be involved to ensure the bill meets the District's needs related to the class action lawsuit. State legislator support continues to grow.

The District continues to monitor federal legislative matters related to the economic stimulus packages for funding in response to COVID-19 for special districts and payment assistance for water service customers. Water infrastructure bills continue to be developed. The Board will receive more information from its federal advocate during the study session on Friday, June 19.

Board President asked for Board comments and questions. The Board thanked staff for the legislative update. Board President asked for Public Comments. There were none.

REPORTS FOR DISCUSSION

14. Committee Report(s):
 - a. Other Post-Employment Benefits Committee Post-Meeting Report (05/21/2020)
 - b. Retirement Plan Committee Post-Meeting Report (05/21/2020)
 - c. Operations and Engineering Committee Post-Meeting Report (05/27/2020)

15. Schedule Future Meeting Dates and Times

President Borba thanked staff for the quick turn around on committee meeting reports. Director Avila explained that some upcoming ACWA Federal Affairs Committee meetings will have short notice.

REPORTS

16. General Manager

Mr. Welch reported the unexpected passing of the daughter of retired District Director of Public Affairs Al Donner. The Board will be provided more information in the Board letter. The Board study session is scheduled at 9:00 a.m. on Friday, June 19, and the Board was asked to follow the COVID-19 protocols and safety information provided.

17. Legal Counsel

Mr. Coty did not have a report.

18. Board

Vice President Holdaway reported that she had provided a presentation to the Oakley Rotary Club on June 4.

Director Boatman reported that she had attended the Association of California Water Agencies Geohazard Risks webinar on June 2. She attended the Southern California Water Coalition meeting that included lessons learned during the 40-year history of the California Water Commission on June 11. On June 16 she participated in the East Bay Leadership Council (EBLC) Water Task Force (WTF) meeting.

Director Avila reported that he had participated in the Multi-state Salinity Coalition conference planning meeting on June 11. He had attended the EBLC WTF meeting on June 16.

Director Burgh did not have a report. He commended staff for the 2021 District calendar art contest.

President Borba reported that she had met with the General Manager on June 9 and 16. On June 12 she attended the Contra Costa County Taxpayers Association webinar on Contra Costa County Taxpayers - Family Home Protection and Fairness in Property Tax Act of 2020.

CLOSED SESSION

19. Conference with Legal Counsel-Anticipated Litigation: significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: (one case).

At 8:07 p.m. President Borba announced that the Board would move into the urgent closed session matter that was added to the agenda at the beginning of the Board meeting regarding a potential litigation matter, which did not require announcement of additional attendees.

RECONVENE FROM CLOSED SESSION

20. Report out on closed session.

At 8:51 p.m. President Borba announced the Board did not take a reportable action during the closed session.

ADJOURNMENT

At 8:52 p.m. President Borba adjourned the meeting. The next meeting of the Board of Directors will be a study session held by teleconference at 9:00 a.m. on Friday, June 19, 2020. The next regular meeting of the Board of Directors will be on July 1, 2020 commencing at 6:30 p.m. and will be held by teleconference.



Lisa M. Borba, President

Attest:



Mary A. Neher, District Secretary



N A A C P

NATIONAL ASSOCIATION FOR
THE ADVANCEMENT OF COLORED PEOPLE
East County Branch
P.O. Box 1026 • Pittsburg, CA 94565

June 17, 2020

Contra Costa Water District Board

Via email: mneher@ccwater.com

Attn: Board President and Members

Good evening Board President Borba and Board Members, my name is Victoria Adams, and I am the President of the East County Branch of the National Association for the Advancement of Colored People, the NAACP. Recently, the NAACP has learned that in your agency's 84-year history there has only been one Black manager employed by you. We find this quite alarming and completely unacceptable that in that all this time, there has not ever been one other qualified Black person to hold a management leadership position with the Contra Costa Water District. And, also disconcerting is understanding that the person who holds that title of manager has been working in the capacity and fulfilling the duties of a department head, without being formally recognized or compensated as such. This brings me to the issue of a specific complaint that needs to be addressed. This employee, in fact, the first and only Black manager in your entire agency's history, has filed complaints with three different agencies, which I will not go into detail about. But, I will say that these complaints have been filed with the DFEH and EEOC charging a Title VII Federal Civil Rights Violation and of state violations. Also, a complaint has been filed with the East County Branch of the NAACP alleging racial discrimination. With that in mind, I have three brief items I would like to discuss:

Item Number One: The employee's issues deal with pay and job title requests which are within your level of authority because that person is a manager. The employee attempted four times last year to appeal to you based on the written complaint procedure that you approved in your Code of Regulations. The employee was denied access to simply talk with you and was even ignored. This is not acceptable treatment towards this person for invoking their due process right of appeal, regarding a legitimate complaint, filed in good faith.

Item Number Two: There are a number of troubling incidents detailed in the complaint, two of which are most concerning. A) There appears to be one set of pay and job title rules for white managers and a different set of rules for the employee; and B) the allegation that your agency is NOT complying with the Federal Fair Labor Standards Act. According to your employee, two-thirds of your entire workforce is not receiving the FLSA overtime wages that they are legally entitled to. Despite the fact that this same Black manager notified the District of such nearly four years ago and has repeatedly urged the decision makers to comply so that the employees receive their due wages. I am assuming you all were not aware of this unlawful conduct, otherwise I believe you would have acted.

Item Number Three: I want to advise you that Mr. Willie Mims, from our Legal Redress Committee, sent a copy of the 13 page written complaint to President Borba, of this Board, on Sunday and asked that she forward it to the rest of the Board members. The Board needs to know what happened to the Contra Costa Water District's first and only Black manager.

These allegations of racial discrimination have occurred on your watch. Therefore, we ask that you direct your staff end these discriminatory practices, to enforce the pay rules and ensure that they are applied equally to all employees, not to those who are white and privileged!

Board of Directors

June 17, 2020

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In closing, while I know the regulatory processes with the DFEH and EEOC are underway, we do ask, however, that you set up a meeting with this employee so that they can bring their complaint directly to you, which they have not been afforded an opportunity to do so as of yet. The Contra Costa Water District Board is in a crucial position to address discrimination and racism within its workforce. And this problem will not go away until the board vigorously addresses it!

We look forward to working with you.

Regards,

Victoria Adams

President, East County NAACP