

BOARD OF DIRECTORS MEETING

MINUTES

REGULAR MEETING

Thursday, June 20, 2019

1:30 PM

(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 in the Sacramento Public Library, Tsakopoulos Library Galleria, 828 I Street, Sacramento, CA 95814, at 1:30 p.m.

2. ROLL CALL

Board members in attendance were Tony Estremera, Richard Atwater, Steve Blois, and Sarah Palmer constituting a quorum of the Board.

Staff members in attendance were Kathryn Mallon, Joshua Nelson, and June Skillman.

3. CLOSED SESSION

4. PLEDGE OF ALLEGIANCE

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

5. REPORT OUT OF CLOSED SESSION

- a. Conference with Real Property Negotiator pursuant to Gov't Code section 54956.8:
 - Property: 980 9th Street, Sacramento, Ca
 - Agency Negotiator: K. Mallon
 - Negotiating Party: GV/Hi Park Tower Owner, LLC
 - Under Negotiation: Lease Price and Terms

Mr. Nelson reported that there were no reportable actions taken in Closed Session.

6. PUBLIC COMMENT

President Estremera opened Public Comment, limiting speaking time to three minutes each.

Ms. Deirdre Des Jardins, California Water Research, reviewed the Board's procurement policy and requested that the Board provide the procurement policy to the Department of General Services for

review and to make sure that the policy is in conformance with the State Contract Act and Government Code 4525.

Ms. Osha Meserve, Local Agencies of the North Delta, raised concern that investigative well drilling, under the Supreme Court order, has been performed on 10 parcels in Sacramento County by DWR. Ms. Meserve claimed that the necessary county drilling permits have not been obtained and the proper site clearance wasn't conducted for endangered species by DWR.

President Estremera closed Public Comment.

7. APPROVAL OF MINUTES: April 18, 2019 Regular Board Meeting and May 16, 2019 Regular Board Meeting

Recommendation: April 18, 2019 Regular Board Meeting and May 16, 2019 Regular Board Meeting

Move to Approve Minutes from April 18: Blois

Second: Atwater

Yeas: Atwater, Blois, Estremera

Nays: None

Abstains: Palmer

Recusals: None

Absent: None

Summary: 3 Yeas; 0 Nays; 1 Abstains; 0 Absent. (Motion passed as MO 19-06-01).

Move to Approve Minutes from May 16, 2019: Palmer

Second: Atwater

Yeas: Atwater, Blois, Estremera, Palmer

Nays: None

Abstains: None

Recusals: None

Absent: None

Summary: 4 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion passed as MO 19-06-02).

8. CONSENT CALENDAR

There were no items on this month's consent calendar.

9. DISCUSSION ITEMS:

a. Consider Passing Resolution to Authorize the President to Execute an Amendment to the Joint Exercise of Powers Agreement (JEPA) for Planning and Environmental Services in Support of the Environmental Analysis for a Potential Delta Conveyance Project, and to Determine such Actions are Exempt from the California Environmental Quality Act

Recommendation: Adopt Resolution to Authorize the President to Execute an Amendment to the Joint Exercise of Powers and to Adopt CEQA Determination for Such Actions.

Joshua Nelson, General Counsel, presented a summary of the staff report continued from May 18, 2019 Board Meeting. On May 2, 2019, DWR withdrew its approval of the California WaterFix project and rescinded its notice of determination under CEQA. DWR further indicated its intent to develop a Notice of Preparation (NOP) under CEQA. The NOP will consider proposals to address climate change resiliency and protect the State Water Project Delta conveyance from earthquake risk, in consideration of a one-tunnel conveyance facility consistent with Executive Order N-10-19. The May 2, 2019 letter further identified conceptual engineering, design, and other work that the DCA is uniquely situated to provide as DWR moves through the CEQA process. The amendment will allow the DCA to provide the planning and environmental services to DWR and further deletes or suspends some inapplicable provisions of the JEPA during the environmental planning phase. During the May Board meeting, there was some confusion about the scope of the amendment and the roles of the different entities during the environmental planning phase. DWR is and will remain the lead agency for CEQA.

Mr. Don Nottoli, Sacramento County Supervisor and Delta Counties Coalition, asked the Board to consider the budget authorization that goes with this approval. Additionally, Mr. Nottoli asked that alternatives are considered, and that local process and ordinances are adhered to for any field work of those alternatives and that property owners are given adequate notice. Mr. Nottoli expressed appreciation for past stakeholder outreach but emphasized the importance of future stakeholder and property owner outreach, notice, and opportunity to participate in the decision-making process.

Ms. Mallon responded that there have been recent meetings with the County supervisors, subsequent to the May Board meeting, that have allowed the entities to discuss and collaborate. Ms. Mallon emphasized that adequate funding to evaluate all alternatives that are identified and that issues are addressed as they arise.

Ms. Osha Meserve, Local Agencies of the North Delta, concerned that the definition of the conveyance part of the project hasn't expanded to look at other alternatives that are consistent with the Governor's water resiliency portfolio initiative. Ms. Meserve doesn't think it is appropriate for the scope of work to be so limited and the proposed budget items for 2019-2020 to support the single-tunnel option moving forward, before other alternatives have had further evaluation.

Ms. Deirdre Des Jardins, California Water Research, expressed concern that the amendment has not been reviewed by the Department of General Services, Office of Legal Services, and that any project under the Central Valley Project act should be designed by DWR, if not approved by DWR in the 30%, 70%, and 100% design phases. Another item that Ms. Des Jardin expressed concern about was the standard clause that requires that all laws are compiled with, including local laws. Ms. Des Jardin requested that the amendment be provided to the Department of General Services for review.

Mr. Dan Whaley, Delta Resident, expressed disappointment at the amount of taxpayer moneys that have been spent irresponsibly with moving forward on a single-tunnel project when all alternatives have not been evaluated. Mr. Whaley emphasized the need to take a new look at this project and really take the time to find out what the communities' issues and concerns are, otherwise, he fears that this project will be litigated for many years.

Mr. Nelson clarified that if the Board approved the amendment, then it would be circulated to DWR for approval, and then to Department of General Services. This is the same process that occurred for

the JEPa itself. Ms. Palmer clarified that DWR will be going through the CEQA process for the project and any alternatives.

Move to Approve Resolution to Authorize the President to Execute an Amendment to the Joint Exercise of Powers and to Adopt CEQA Determination for Such Actions.

as noted: Atwater
 Second: Palmer
 Yeas: Estremera, Atwater, Blois, and Palmer
 Nays: None
 Abstains: None
 Recusals: None
 Absent: None
 Summary: 4 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion Passed as Resolution 19-06)

b. Consider Passing a Resolution to revise the Scope of Services for Jacobs Engineering Group, Inc., and authorize the Executive Director to negotiate and execute an Amendment to Consultant Services Agreement to Provide Engineering Design Management Services.

Recommendation: Consider Passing Resolution to revise the Scope of Services for Jacobs Engineering Group, Inc., and authorize the Executive Director to negotiate and execute an Amendment to Consultant Services Agreement to Provide Engineering Design Management Services (Amendment).

Ms. Mallon described this Amendment as it will allow Jacobs to provide services to assist DCA as it provides environmental, planning, and similar services to DWR in accordance with Amendment No. 1 to the Joint Exercise of Powers Agreement. At its November 15, 2018 meeting, the Board authorized the negotiation and execution of an agreement with Jacobs for engineering design management services for the California WaterFix. In January 2019, Task Order No. 1 amendment 1 was approved for start-up services. In March 2019, Task Order No. 1 was placed on hold and a task was added to assess impacts of a single tunnel project. Now, Task Order No. 1 amendment 2 reconciles all services for Jacobs for Fiscal Year 2018-19 and Task Order No. 2 provides funding for planned services in Fiscal Year 2019/20. Planned scope of services for Fiscal 2019/20 will include:

- Program Management Support
- Engineering, including developing Alternatives Analysis and Concept Engineering Reports
- Field Work Coordination and Management
- Stakeholder Engagement Support

The expected budget for these services is \$38,615,760. Approval of the Amendment is exempt from CEQA consistent with anticipated Board action approving Amendment No. 1 to the JEPa.

Ms. Deidre Des Jardin, California Water Research, pointed out that the JEPa states that the DCA is to direct the design of the project, not DWR, and that this is reflected in the contract terms with Jacobs. Ms. Des Jardin does not feel it is appropriate to add environmental planning services for DWR onto the same contract that is directing engineering work due to the conflict.

Mr. Mark Wilson, Ellinston Vineyards – Clarksburg, CA, observed that it appears the project is in the same location but reduced to the single-tunnel. Mr. Wilson asked if the exploratory drilling that was

occurring in Sacramento County was being performed under one of the DCA’s contracts or under DWR’s.

Ms. Mallon responded that the drilling is occurring under DWR’s contracts and isn’t under the DCA’s authority. Ms. Mallon clarified that the process will identify alternatives and that they are currently starting to evaluate possibilities within the ship canal. Further, there will be a large stakeholder engagement element for evaluation of alternatives within the EIR/EIS process. Ms. Palmer further emphasized that the Board is still digesting and responding to the executive orders and letters that occurred in May and ensured that the process is still in play for evaluation of alternatives.

Move to Adopt Resolution to revise the Scope of Services for Jacobs Engineering Group, Inc., and authorize the Executive Director to negotiate and execute an Amendment to Consultant Services Agreement to Provide Engineering Design Management Services

as noted: Atwater
 Second: Palmer
 Yeas: Estremera, Atwater, Blois, and Palmer
 Nays: None
 Abstains: None
 Recusals: None
 Absent: None
 Summary: 4 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion Passed as Resolution 19-07)

c. Consider Approving Budget Amendment 2 for FY 2018/19

Recommendation: Adopt Amendment 2 for FY 2018/19 Budget by Minute Order.

Ms. Mallon provided some background of the adopted Fiscal Year 2018/19 budget of \$133.57 M and was later amended to \$61.88 M in Amendment 1. Amendment 2 was an additional \$14.24 M, noting that no funding was allocated for construction or land acquisition services. Ms. Palmer further clarified that there is no funding in the budget for land acquisition this fiscal year. Ms. Mallon responded that there will be no land acquisition funding budgeted until there is a project selection made.

Move to Adopt the budget true-up Amendment 2 for Fiscal Year 2018/19.

as noted: Blois
 Second: Palmer
 Yeas: Estremera, Atwater, Blois, and Palmer
 Nays: None
 Abstains: None
 Recusals: None
 Absent: None
 Summary: 4 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion passed as MO 19-06-03).

d. Consider Adopting the Fiscal Year 2019/20 Proposed Budget

Recommendation: Adopt the Budget Revision for FY 2019/20 by Minute Order.

Ms. Mallon discussed the key activities for Fiscal Year 2019/20 and emphasized that the focus will be on establishing the governance of the DCA and setting up proper procedures, policies, and reporting. Further, the DCA will perform more detailed engineering of the alternatives and impacts in support of the EIR/EIS, prepare conceptual engineering reports, and stakeholder engagement process. Planned expenditures for FY 2019/20 are estimated at \$97.8 million, including \$16.8 million of contingency, and include seven major categories:

- 1) Program Management
- 2) Project Controls
- 3) Engineering
- 4) Field Work
- 5) Property Access and Acquisition
- 6) Stakeholder Engagement
- 7) Office Administration

No contingency will be spent without coming to the Board for approval. Ms. Mallon emphasized that more geotechnical field work would be beneficial to better understanding the possible alternatives. Ms. Mallon further clarified that no property will be acquired this year, but funding allocated to this line item is for acquire temporary access permits to perform any field work necessary. Ms. Mallon pointed out that the significant budget for the Office Administration is due to the moving of the current office in to a permanent office which will assist with collaboration with DWR and EIR/EIS as they will all be one place.

Ms. Osha Meserve, Local Agencies of the North Delta, stated that she feels that it is too late to seriously consider alternatives during CEQA and it feels like an empty promise. Ms. Meserve recommends that a commitment from the DCA to look at some of the previously proposed local alternatives and to allocate funding towards those alternatives would be better received.

Ms. Deidre Des Jardin, California Water Research, expressed concern that 3-D hydrodynamic modeling, with sea-level rise and north-Delta levee failures, needs to be performed before an alternative is selected. This modeling has never been performed and the results are needed to accurately inform a decision of an intake location a Courtland or Hood. Additionally, hydraulic design and validation of the 1,000 ft intake needs to be performed to ensure that the intake will work with the tidal influence.

Mr. Mark Wilson, Ellinston Vineyards – Clarksburg, CA, expressed concern that the stakeholder engagement process will engage the stakeholders after substantial design has already been conducted for the alternatives. Mr. Wilson emphasized the need to subsidize stakeholders and professionals to participate in the process from the very begin.

Mr. Blois stated his support for the agenda item but requested that timing of the expenditures be provided at a future Board meeting.

Move to Adopt the Budget for FY 2019/20.

as noted: Blois
 Second: Palmer
 Yeas: Estremera, Atwater, Blois, and Palmer
 Nays: None
 Abstains: None

Recusals: None
 Absent: None
 Summary: 4 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion passed as MO 19-06-04).

e. Consider Passing Resolution to Authorize the Executive Director to Negotiate and Execute a Lease for office space at 980 9th Street in Sacramento, CA.

Recommendation: Adopt a Resolution to authorize the Executive Director to negotiate and execute an eighty-nine-month office lease with two five-year options for the 980 9th Street office space.

Ms. Mallon described the office space as being 26,000 sq. ft and ultimately able to house 150 co-located employees of the DCA, DCO, and DWR at 980 9th Street. Ms. Mallon and staff have been working on negotiating lease terms and now is seeking approval from the Board.

Move to adopt a Resolution to authorize the Executive Director to negotiate and execute an eighty-nine-month office lease with two five-year options for the 980 9th Street office space.

as noted: Atwater
 Second: Palmer
 Yeas: Estremera, Atwater, Blois, and Palmer
 Nays: None
 Abstains: None
 Recusals: None
 Absent: None
 Summary: 4 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion Passed as Resolution 19-08)

f. Consider Approving Amendments to the Bylaws Related to Meeting Timing and Staffing.

Recommendation: Adopt a Resolution approving amendments to the Bylaws related to meeting timing and staffing.

Mr. Nelson reported that this agenda item is to clean up some changes in the bylaws that state the Board meeting time of 1:30 PM instead of 2 PM and to request that the Bylaws include maximum flexibility to the DCA on staffing terms and conditions.

Mr. Atwater asked that any decisions to make employees DCA employees would be approved by the Board because consideration of CalPERS and other employee benefits would need to be given. Mr. Nelson further clarified that this amendment is to clean up the Bylaws, so that the Board has maximum flexibility in how they might decide to staff the DCA in the future.

Move to Approve amendments to the Bylaws related to meeting timing and staffing.

as noted: Atwater
 Second: Palmer
 Yeas: Estremera, Atwater, Blois, and Palmer
 Nays: None
 Abstains: None
 Recusals: None
 Absent: None
 Summary: 4 Yeas; 0 Nays; 0 Abstains; 0 Absent. (Motion Passed as Resolution 19-09)

10. STAFF REPORTS AND ANNOUNCEMENTS:

a. Executive Director's Report

A written report was provided in the Board package. Ms. Mallon gave a brief highlight of the close collaboration that has been occurring with Secretary Crowfoot, Director Nemeth and the DCO, after the Governor's pivot to the single tunnel Delta Conveyance Project. Ms. Mallon also provided an update on Parson's final task order for project management support services and budget information as well as collaboration of additional engineering staff. The team has combed through the historical record of conceptual engineering reports and have identified significant gaps that will need to be filled. Additionally, information has started to be collected on using the ship canal as an alternative. Ms. Mallon also pointed out that a considerable amount of time was spent on preparing the budgets for approval this month.

b. General Counsel's Report

A written report was provided in the Board package. Mr. Nelson gave a brief update of the environmental committee discussed at the May meeting, a strawman framework is in development and will likely be brought to the Board in July or August for discussion. Mr. Nelson has also been assisting Ms. Mallon in IT procurements and establishing policy and procedures.

c. Treasurer's Report

A written report was provided in the Board package. Ms. Skillman highlighted that as of May 31, 2019 the DCA has a cash balance of \$803,475 and as of June 13, 2019 the DCA received reimbursement of \$601,367 from the DCO. There were no additional questions or comments.

d. Verbal Reports

No verbal reports were provided.

11. FUTURE AGENDA ITEMS:

Mr. Blois requested an agenda item for next month's agenda for the Executive Director to provide a report on how the projected monthly expenditures for task orders issued under approved contracts compare to available funds from DWR and State Water Contractors.

12. ADJOURNMENT:

President Estremera adjourned the meeting at 2:58 p.m., in the Sacramento Public Library, Tsakopoulos Library Galleria, 828 I Street, Sacramento.