

Marin County Flood Control and Water Conservation District

**MINUTES OF THE
FLOOD CONTROL ZONE 4 ADVISORY BOARD MEETING
HELD THURSDAY OCTOBER 20, 2016
AT WESTMINSTER PRESBYTERIAN CHURCH, FINDLAY HALL
TIBURON, CA 94920**

<u>Advisory Board (AB) Members Present</u>	<u>District Staff (Staff) Present</u>
Robert "Bob" Rogers (RR) - Chairperson	Craig Tackabery, Assistant Director (CT)
Timothy Barteau (TB)	Tony Williams, Principal Civil Engineer (TW)
John Leszczynski (JL)	Scott McMorrow, Assistant Engineer (SM)
Kathryn Oliver (KO) – Vice Chairperson	Pat Cunningham, Building & Maintenance (PC)
	<u>Others</u>
<u>Advisory Board (AB) Members Absent</u>	Leslie Alden, Aide to Supervisor Sears
Dianne Newman (DN)	

Meeting came to order at 6:35 PM.

Item 1. Approval of Meeting Minutes: August 11, 2016

AB Member KO recommended the following two amendments to Item 4 - Update on Zone Expenditures: 1) After the second sentence, add the following sentence: *The costs billed to the Zone consisted of a lump sum payment of \$225,000 to the Plaintiffs to settle the lawsuit and an unspecified amount in staff labor. The settlement payment was not disclosed to the AB prior to its listing as a line item in budget materials provided at the meeting,* and 2) The second to last sentence should read: *Further, KO recommended that an Ad Hoc committee be formed and that this committee meet with County Counsel and review the issues involved in the settlement payment and charging of staff time spent on litigation to Zone 4.*

Action by Board: Approve minutes as amended above.

M/S: JL/KO, **Ayes:** All, **Nay:** None, **Abstain:** None

Item 2. Open Time for Items Not on the Agenda

No members of the public accepted the invitation to address the AB.

Item 3. Update on Current Zone 4 Projects

Staff updated the AB on the following Zone 4 Projects: Cove Pump Station Pipe Repair (complete), Cove Pump Station trash rack repair (complete), Cove Pump Station mechanical float valves (underway), Cove Pump Station electrical check out (underway), Cove Pump Station Upgrade Request for Proposals (underway), and East Creek Study (underway). The written staff report contains the details of these updates. As part of the design review for the Cove pump station upgrade, the consultant hired to design the upgrade will make two presentations to the Advisory Board

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JL asked if the electrical check out of Cove Pump Station would include a simulation of pump number 1 cycling on then off, and then have pump number 2 start without pump number 1 coming online. Staff responded that they would ask the consultant.

JL asked if sediment could be removed from East Creek prior to the completion of the East Creek Study. Staff responded that the study would help identify what, if any, potential flood mitigation projects to consider for the creek.

Item 4 Information about District-wide Maintenance Program

TW presented information about the District's maintenance program, including outlining the District's facilities and work performed for the District by Building Maintenance, Roads Division, Garage/Maintenance, and the Conservation Corps. This presentation also included describing the levels of Federal and State regulatory oversight the District operates under, as well as information on existing permits the District is currently working under. Details of the District's long and short term maintenance program were presented, as well as pre-winter and storm preparation activities undertaken by the District. Details of the Department Operations Center (DOC), and the DOC's activation for potential large storm events were presented.

Additionally, Pat Cunningham, Building and Maintenance Manager for the Public Works Department, gave a presentation on his division's activities for the District. PC also reviewed his divisions staffing, and that members of his staff were available and scheduled 24 hours a day, seven days a week. RR asked how often workers were trained in the maintenance of pumps. PC stated that the training is ongoing, and that seasoned workers with experience in pump maintenance train the newer workers. RR asked if outside trainers should be brought in to train staff. PC stated that vendors periodically provide training to staff on an as-needed basis. JL asked if the staff electricians are trained in programmable logic controllers (PLCs). PC stated that one electrician is trained and certified to work with PLCs. PC further stated that during the rainy season, he deploys more staff into the field. RR stated that he would like to have the trash racks cleaned after each rain event. PC stated that his staff currently does this, and that he agrees with this concept. RR asked if there was a manual for operating and maintaining the pump stations. PC stated that his division is currently working on such a manual. RR stated that he was concerned that the Cove Pump Station pump cycling was not effective. PC stated that the current pump cycling was the optimum configuration for a variety of rain flow events. A handout and PowerPoint presentation was provided to the Advisory Board that outlined the District's maintenance program

Item 5. Report from Ad Hoc subcommittee of John Leszczynski and Kathryn Oliver on settlement of Blinds and Designs et al v. Marin County Flood Control and Water Conservation District litigation.

KO reviewed that at the August 11, 2016 AB meeting, an Ad Hoc Subcommittee was formed to review issues involved in the appropriation of Zone 4 budgeted funds to pay for the settlement of and staff time spent on the above-referenced "Blinds and Designs" litigation. The purpose of the Subcommittee was to consider if the use of Zone 4 funds for these purposes, as opposed to payment from County funds or some other source, was proper. The Subcommittee consisted of KO and JL. They met with County Counsel's office and various staff members, and KO did legal and factual research on the issues. The result was a written report which was distributed to the AB, staff and public at the meeting.

TB asked if any form of reimbursement to Zone 4 of the Zone 4 funds paid in connection with the litigation was considered. KO stated that this was considered, and indeed was a focus of the

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review. Based on legal research and other study, as well as discussions with County Counsel's office and staff, the report found that it is unclear if a legal and factual basis exists to support the use of Zone 4 funds to pay the settlement and staff costs involved here. Because this is a gray area, the Subcommittee did not recommend that the AB seek reimbursement from the County of Zone 4 funds in this case. JL stated that, should this type of legal action occur again, payment and funding issues must be scrutinized sufficiently early in the case. KO (and the report) recommended including one or more AB members in similar future litigation discussions with County attorneys and staff. TB agreed that in that situation, the AB should be included within the scope of applicable privileges, including the attorney-client privilege. CT stated that the Board of Supervisors has asked their staff to look into the matter of involving AB members in future litigation involving their Zone. CT also stated that County Counsel's office reviewed the Subcommittee report, and disagreed with its conclusions; he attempted to work with the Subcommittee to review the report, but was not successful.

After discussion, the Subcommittee's report was presented to the AB for its approval. The Subcommittee also requested that it be sent to the Board of Supervisors for information and approval.

Action by Board: A motion was made that the Flood Zone No. 4 Advisory Board adopt the report titled Report Prepared by Subcommittee on Behalf of Advisory Board of Zone 4 of the Marin County Flood Control and Water Conservation District: The Use of Zone 4 Funds for Payment of Settlement and County Staff Time Relating to Blinds & Designs v. County of Marin, October 20, 2016 as a report of the full Advisory Board.

M/S: TB/JL, **Ayes:** All, **Nay:** None, **Abstain:** None

Action by Board: A motion was made to submit entire report titled Report Prepared by Subcommittee on Behalf of Advisory Board of Zone 4 of the Marin County Flood Control and Water Conservation District: The Use of Zone 4 Funds for Payment of Settlement and County Staff Time Relating to Blinds & Designs v. County of Marin, October 20, 2016, including recommendations, to the Board of Supervisors of the Marin County Flood Control and Water Conservation District and to the Marin County Board of Supervisors, for their consideration and approval.

M/S: KO/JL, **Ayes:** All, **Nay:** None, **Abstain:** None

Item 6. Schedule Next Meeting

Staff reported that once a consultant was selected for the Cove Pump Station upgrades, staff will inform the AB. The AB agreed that they would like to meet on March 9, 2017, or sooner if needed. The AB adjourned the meeting at 9:17 PM.