



# TOWN OF DISCOVERY BAY CSD

1800 Willow Lake Road, Discovery Bay, CA 94505-9376  
Telephone: (925) 634-1131 Fax: (925) 513-2705

## Board Members

President-Ray Tetreault	raytetreault@comcast.net
Vice President-Mark Simon	marsi1950@yahoo.com
Treasurer-Dave Dove	ddove@sbcglobal.net
Director-David Piepho	DApiepho@sbcglobal.net
Director-Shannon Murphy-Teixeira	smt@politician.com

## MINUTES OF REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE TOWN OF DISCOVERY BAY CSD

January 21, 2009

1800 Willow Lake Road, Discovery Bay, California

Website address: [www.townofdiscoverybay.org](http://www.townofdiscoverybay.org)

### REGULAR MEETING at 7:00p.m.

#### A. ROLL CALL

President Tetreault called the meeting to order and then asked for the roll call. Roll call reflected that all directors were present. He then led in the Pledge of Allegiance.

President Tetreault asked to put Legal Report in front of the Chair Report on the agenda.

#### B. PUBLIC COMMENTS (Public Comments will be limited to a 3-minute time limit)

Pat Richardson commented about the sound system not working.

#### C. CONSENT CALENDAR

Director Piepho motioned to approve the Consent Calendar. Vice-President Simon 2<sup>nd</sup> the motion. The motion passed. (5ayes, 0 nos, 0 abstain)

### LEGAL COUNSEL REPORT

Legal Counsel Stovall reported that he believed that a committee of the board had held a meeting that was in violation of the Brown Act. He explained that on August 20, 2008 they had received a draft report from the County Administrative Office talking about normalizing MAC (Municipal Advisory Committee) structures and relationships. He explained that in the draft report they did not recognize the unique situation of the Town of Discovery Bay. He explained that he had recommended to the Board that a committee be formed to address those issues with the County to normalize the relationship. He stated that at his wording a committee was formed which had two members of the board and General Manager Koehne and himself as members of the committee. He stated that he did not intend to have General Manager Koehne and himself as voting members of the committee. That was later corrected and that they are no longer members of the committee. He further explained that about three weeks after the committee was formed and before it was corrected there were a series of emails from Supervisor Piepho's office directed to Director Murphy-Teixeira, Director Piepho, General Manager Koehne and himself. He stated that it did not occur to him at the time this would be a meeting since not all members were contacted and that other people were listed on the emails. He stated that the purpose was to express and explore the concerns. He stated that no action was taken at the meeting. He noted that he attended the meeting, General Manager Koehne attended the meeting and Director Piepho called in to the meeting. He added that Director Piepho and he participated and that General Manager Koehne did not say anything at the meeting. He said that it had been brought to his attention that this had been a committee meeting and the second half of his mistake was that he thought that since only two people

participated in the meeting that it was less than a quorum. He went back and looked at it again, consulted with his partners in the office and the Brown Act States: "gathering in one place of a quorum of a legislative body to deliberate, discuss, take action or hear". Since there were three of them in attendance that it was in fact a committee meeting and was not on agenda or posted as a committee meeting and should have been. He apologized to the board and the committee for having missed this and stressed that no action had been taken.

Bill Richardson commented that he did not think that the report was properly placed on agenda for this meeting. He stated that there was no warning to the public that this was going to be discussed tonight and there was not the required twenty word description. He asked that this be cured by the Brown Act.

**D. CHAIR REPORT**

President Tetreault commented that he felt that the response to the error reported by Legal Counsel had been done in open forum for the public and that he would like to see this issue put to bed. If there is any need to do anything further they will bring it back. He commented that there had been discussion about the issue of whether the board is a MAC or not. He noted that the CSD is not a MAC and that when the CSD was formed the MAC was dissolved. He added that the CSD would assume the duties of the MAC. He reported that he and Director Dove had attended their first meeting with the new water vendor and it will be a weekly meeting and that there is a punch list that they are working on. He commented that at this time he feels very comfortable with the new vendor. He said that he had attended a Sheriff's MAC committee report meeting and that it consisted of a year end report from Marine Patrol and Delta Station commanders similar to what they report at the CSD meetings and they discussed a little of the P-6 Funds..

**E. DIRECTORS' COMMENTS**

Director Murphy-Teixeira - No comment.

Director Piepho asked about a large map that had been asked for by Mrs. Richardson at a meeting. General Manager Koehne stated that it had been requested through the county and he did not have a time frame on that. Director Piepho asked to add the Community Center Report on the agenda once a month with the other reports. He stated that he would be attending a Code Enforcement meeting on January 29<sup>th</sup>. He commented that on January 15<sup>th</sup> there had been a Community Center meeting at the Supervisor's Office and that he had asked for a timeline to be prepared and that has been done and there is a copy at the District Office. He stated that the County is working with the Developer on the Site Dedication and they have given him the financials for what it would cost to put something on the ballot. He reported that he would be attending a CCSDA (Contra Costa Special Districts Association) meeting January 26<sup>th</sup>.

Vice-President Simon – No comment.

Treasurer Dove – No comment.

**F. REQUEST FOR BOARD CONSIDERATION**

1. **Discuss and Comment on Development Application Plan for Small Lot Design Review for 4985 Discovery Point (Koehne)** General Manager Koehne presented this item to the board and stated that he had no comment to this item. The board had no comment.
2. **Discuss and Comment on County's / Sheriffs 2009 Plan on Allocation of Accumulated P6 Funds (Tetreault)** President Tetreault presented this item to the board. He commented that the Supervisor was asking for some input and that they had discussed a possible Town Hall Meeting. He thought that they were ready to have a Town Hall meeting and that Treasurer Dove would get that meeting going. Treasurer Dove commented that they were trying to have the meeting on Tuesday February 3<sup>rd</sup> and when he can get confirmation of that date he can notify the papers and get a press release out. He added that it would probably be at 7:00 pm at Timber Point Elementary. Director Piepho commented that he had spoken to the Superintendent and he did not have any problem with that. Vice-President Simon commented that Bob Mankin has spearheaded this issue and that he has done a great job but that there are other individuals that feel they are not represented and that he thinks the board should reach out to the Homeowners Associations and get them to come to the meetings and comment for their residents. Director Piepho said that he agreed that they should reach out to the entire community. He further commented that he had seen a proposal from the Sheriff but not a plan. He asked that they be sure that the Sheriff attend the meeting. He commented that the community might want to have a contract with

the Sheriff for these funds before they are turned over. He suggested that there be an oversight committee to be sure that they are monitoring how the funds are being spent. Director Murphy-Teixeira excused herself from the discussion until legal could research if there was a conflict with respect to this item. Walter McVittie commented that he agreed with getting the Homeowners Associations to give their input and about the issue of the Sheriff even being able to patrol a gated community. Mike Welsh stated that he was pleased about the approach of the board. Bob Mankin commented that the board has no authoritative say in the distribution of these funds and appreciates the board putting together a meeting. He also commented that they need to be aware of the fact that these are return to source funds even though he would like them to be of benefit to the entire community. Carlos Tabarini commented that he was with a Homeowners Association and has been attending for a long time. He added that there had been comments from members of the community regarding return to source of funds when it benefited Discovery Bay Proper. He stated that he wanted to see these funds benefit the community but that Discovery Bay West has felt ostracized by the Discovery Bay Proper residents and the board and he would like to see the community come together. Jeff Barber commented that he felt this should have been handled last year when it first came up. He stated that he feels the County let this get out of hand. He further remarked that he thought it has been made clear of the level of protection that is currently in Discovery Bay and that there would be two more resident Deputies. An audience member commented that there were no cities that have video surveillances plans funded by tax payers that are privately run. He also added that he had requested who one deputy would be and that he was told that police beats are privileged information. He asked that Director Dove and Director Piepho bring these questions to the Sheriff before the Town Hall meeting so that he can answer the questions. President Tetreault commented that they want to have the Town Hall meeting to get the most input possible and he asked that Director Dove and Director Piepho reach out to all the Homeowner's groups to get everyone involved and he hoped that when the Sheriff comes that he would be able to answer some of these questions. Vice-President Simon commented that he had heard nothing but positive come out of the board and that they have nothing to gain by not getting new police officers. He also said that they are not trying to divide the community and if all the community wants to do is criticize the board and if the community does not want them to get involved in this issue, then they will spend their time on something else. Director Piepho remarked that there were comments made about entitlement and some feeling got hurt, but they should move ahead. He noted that the board represents all of Discovery Bay, not just a part. He added that he agrees that a meeting needs to be put together as soon as possible. He commented that he would like to see that it come back to the board after the Town Hall meeting to decide what goes forward to the Board of Supervisors. He commented that he wants to make sure that if there are budget cuts in the Sheriff's office that it does not affect the deputies funded by the P-District funds. He stated that if the community is looking for speed enforcement that perhaps some of the monies should go to the CHP. He said that the Sheriff will not disclose what the baseline is of a Deputy. Director Dove noted that Lieutenant Burton was in the back of the room and that he was hearing all the comments. Director Piepho asked if two officers made one officer 24/7. Lieutenant Burton responded that the proposal would be eighty additional man hours in Discovery Bay. Director Piepho asked what the baseline is. Lieutenant Burton responded that there is one deputy sheriff in beat 32 three shifts per day, which is 90 percent of Discovery Bay. He added that it gets tricky to actually nail down what the coverage is. He stated that he is trying to get Tony Fontenot, a crime prevention specialist, back since he had seen a drop in crime by 50 percent in Discovery Bay when he was out here. There was further discussion about how the budget is going to hit the Sheriff's department and what the coverage would be.

3. **Discuss and Approve Two-Year Operations & Maintenance Contract with Veolia Water for a Monthly Amount of \$86,292 per-month. (Koehne)** General Manager Koehne presented this item to the board. He also gave the board the final version of the contract and he stated that legal had reviewed the contract. Legal Counsel Stovall asked Mr. Good of Veolia if his response by email had answered the question. Mr. Good responded that it was a minor issue and he had not heard from his legal counsel but that they could handle that later. Legal Counsel Stovall stated that at the Special Meeting held on December 23<sup>rd</sup> part of the agenda was to enter into a contract of two years with Veolia Water and that it would be finalized under the direction of President Murphy-Teixeira and staff. He stated that they have gone back and forth and that everything has been agreed to with the exception of one question of

particular wording and Veolia Water's attorney is traveling and has not had a chance to look at it. He stated that the particular wording is in case there is a breach we have put in a general concept of a 30 day period instead of the 90 day period as in the previous contract with SouthWest Water. He said that there is wording that states that if there is a breach and termination, they are not absolved of any liability incurred by violation of local, state or federal regulations, laws, permits to which you may have been liable which occurred prior to the date of termination. He respectfully requested a motion to authorize and direct the President of the Board to execute this contract that is for a two year period and going on the assumption that the attorney for Veolia has no question with this contract and if he does staff will come back and say that they have not executed the contract. Director Piepho motioned as Legal Counsel had stated. Vice-President Simon 2<sup>nd</sup> the motion. Treasurer Dove commented that he was pleased with Veolia so far. Jim Good with Veolia Water commented that they support the contract and are happy to be working in Discovery Bay. The motion passed. (5 ayes, 0 nos, 0 abstain)

4. **Discuss and Possible Comment / Action on Measure WW – Grant Allocation of Funds (Koehne)** General Manager Koehne presented this item to the board. He commented that he had brought this to the board for them to review and bring back at a later date and discuss how the community would like to use these funds. President Tetreault asked how long before they can get these funds since General Manager Koehne said they had a few years to decide. General Manager Koehne stated that once the Board decides on a particular project then they have to pay for it and then get reimbursed. Vice-President Simon asked if there is a time limit for using this money. General Manger Koehne responded that the community has up to three years to sign a master contract and an additional seven years to complete the project(s) and receive reimbursement for project(s) expenses. Director Piepho asked why the East Bay Regional Parks would be giving the community the money and would they be able to use it for the Community Center or on landscaping. Staff was asked to get clarification on the possible uses of the funds and the length of time that this can be used for. An audience member asked if the board could tell the community how much money is available to spend on landscaping right now. President Tetreault stated that the Treasurer could respond to that question at a future meeting. An audience member asked if the funds have a cap on them even if new houses are being sold. General Manager Koehne responded that he would have to ask that question.
5. **Discuss and Possible Action on Park Dedication Funds Collected by Contra Costa County (Koehne)** General Manager Koehne presented this item to the board. He also presented to the board a previous "Wish List" of projects that the board had discussed doing with these funds. He commented that he was concerned that if they do not use these funds that they may lose them. Director Piepho stated that he agreed that the funds would be returned if not used in a period of time. He commented that they could do a good portion of the items on the list. There was discussion which items to work on. Director Piepho made a motion to start work on item numbers three through eight. Director Dove 2<sup>nd</sup> the motion. An audience member commented that it would be good to put a large portion toward Regatta Park since it needed it. Walter MacVittie commented that he felt that Cornell Park and The Tot Lot were in need of some upgrading also and that a lot of the money in these funds comes from the homes build in Discovery Bay Proper and that the homes in Discovery Bay West had money put into their parks by the developers. Jeff Barber commented that he did not see any need to work on the Bocce Ball Courts in Cornell Park. Director Dove stated that he felt a lot of people would play if the courts were renovated. An audience member commented that the prices on the list were very high and that he thought that it could be done a lot cheaper and with volunteer help. He also noted that he felt that bathrooms were not a good thing to put in because they lead to crime and delinquency. There was discussion about what could be done in Regatta Park. Director Piepho asked that staff bring back the plans for Regatta Park and take a look at it and how some of these funds can be used to improve it. Director Piepho amended his motion to start work on numbers five through eight and that staff bring back the plans for Regatta Park. Director Dove amended his 2<sup>nd</sup>. The motion passed. (5 ayes, 0 nos, 0 abstain)
6. **Discussion and Direction on Hiring a HR Consultant (Tetreault)** President Tetreault commented that he thought the intent of the board had been to get an HR Consultant to look at job descriptions and benefits. Vice-President Simon commented that they needed to look at the positions that they wish to fill. President Tetreault commented that was under item 10. Vice-President Simon commented that they would need to have all the positions decided before a consultant comes in. General Manager

Koehne remarked that he could bring back to the board the research they had done with the California Special District Association and their job survey and he will bring back the research done previously on an HR Consultant. Director Piepho asked if they could bring in an HR Consultant to go over all staff and where the District should be going as well as the positions that the District currently has. Treasurer Dove commented that there needs to be consideration of the change in revenue with the individual water billing.

7. **Discuss and Approve Continuance of Emergency Sewer Pipeline Replacement of 450-feet for a portion of Beaver Lane (Koehne)** General Manager Koehne presented this to the board to continue the work. Legal Counsel requested a motion to continue the emergency sewer pipeline replacement of Beaver Lane on the grounds that there has been threat to loss or impairment of life, health, property or essential public services because of the potential quick collapse and the additional discovery of the sink hole. This continues the previous vote and this requires a fourth fifths vote if that motion is made. Director Piepho made this motion. Treasurer Dove 2<sup>nd</sup> the motion. The motion passed. (5 ayes, 0 nos, 0 abstain)
8. **Discuss and Approve Resolution 2009-02 to Add New Directors Names to Various District Bank Accounts (Koehne)** General Manager Koehne presented this to the board. Director Piepho made a motion to adoption this resolution. Director Murphy-Teixeira 2<sup>nd</sup> the motion. The motion passed. (5 ayes, 0 nos, 0 abstain)
9. **Discuss and Consider for Approval, Termination Agreement with SouthWest Water (Stovall)** President Tetreault stated that he had been told that there would be no action on this item.
10. **Discuss and Consider Providing Input into Future District Hires (Tetreault)** President Tetreault presented this item to the board. Director Murphy-Teixeira commented that they had intended to hire a Landscape Manager, and a Water and Sewer Manager so that there are proper departments so that General Manager Koehne did not have to wear so many hats. Vice-President Simon commented that he had just returned from a seminar and that every other district he spoke with had several department heads under the General Manager and that after taking a tour of the facilities there is no way that one person can do all that its necessary. Director Piepho commented that this had been started over two years ago and that now the district is at a crossroads. Several audience members commented that there needs to be department heads under the General Manager.

\*\*President Tetreault opened Public Comment in order for the Fire Chief to give his report.

Battalion Chief Burris reported that Station 58 in Discovery Bay Proper had 3 medicals, 1 structure fire and 2 auto accidents. He reported that Station 59 had 9 medicals, 5 structure fires, 3 auto accidents, 1 exterior fire, 1 move up and 1 hazardous condition. He commented that 3 of the fires were on Bethel Island.

\*\*President Tetreault closed Public Comment.

11. **Discuss and Direction on Recent Break-in and Possible Order of Restitution (Piepho)** Director Piepho explained that he had put this item on because he had heard that the District Attorney was not going to press charges in the break in of the District Office. He commented that he wanted to bring this up to ask legal counsel and get the boards input about filing an Order of Restitution. Legal counsel was not sure if the board could file for restitution so he will check with Paul Balestracci in his office to see if this is possible. Director Piepho asked if staff could contact the District Attorney's Office to find out why they are not pressing charges and if the District can press charges. General Manager Koehne commented that he was drafting a letter to the District Attorney about the issue of the premises being broken into and why there were no charges. He added that staff had put some preventative measures in the windows, so the windows will have to be broken to get into the office. He further stated that staff is researching other options of security systems. Director Piepho made a motion that staff make contact with the District Attorney's Office and get direction from counsel if the District can ask for restitution and proceed along those lines. Vice-President Simon 2<sup>nd</sup> the motion. Vice-President Simon asked that staff look into someone like Bay Alarm. General Manager Koehne responded that staff is looking into it. The motion passed. (5 ayes, 0 nos, 0 abstain)



**G. GENERAL MANAGER REPORT**

1. **Update on Wastewater Spills** General Manager Koehne reported that there had not been any spills since December 17<sup>th</sup>. He commented that staff is waiting for some responses from the Regional Board on previous spills. He remarked that staff plans to update the report on the December 17<sup>th</sup> spill because staff does not see the spill the same way that SouthWest Water reported the spill. Treasurer Dove commented that the sludge has been approved and what could be done to move it out since we are not allowed to store very much. An audience member asked about the status of the fine on the spill. General Manager Koehne responded that they have asked to sit down with Regional Board staff to go over the fine and discuss some issues. He noted that he is waiting for their response.
2. **Landscape Report** General Manager Koehne passed out a copy of the Monthly Landscape Report from Valley Crest and a report of staff progress on landscape issues. There is a copy on file at the District office. Treasurer Dove asked about the area on Clipper Drive near the Tot Lot that just has plastic showing. General Manager Koehne responded that they have Christmas trees that are being mulched and that staff plans to put that out there to cover the plastic.  
General Manager Koehne reported that there had been 3 water leaks. He reported that there had been a sewer back-up at a residence and staff had assisted them but suggested that they need to get the lateral fixed. He reported that staff had been working with Veolia Water and helping them get a feel for where things are located. He reported that staff is working on the extra security measures for the District Office and staff is looking at ways to go green by using wind power at plant #2.

**H. LEGAL COUNSEL REPORT**

Presented after Item C.

**I. CORRESPONDENCE**

**Information Only**

1. R – State Route 4 Bypass Meeting Minutes for December 11, 2008
2. R - Transplan Committee Minutes of November 13, 2008
3. R – Draft Contra Costa Special Districts Meeting Minutes of Oct 20, 2008
4. R – CCC Aviation Advisory Committee Mtg. Minutes of September, 16, 2008, October 21, 2008 & November 18, 2008
5. R – Celebration 75 Years of Regional Parks – January 24, 2009 in Martinez
6. R – YMCA’s “Together We Build” Capital Campaign Reception February 5, 2009 in Brentwood

**J. FUTURE AGENDA ITEMS**

Bring back H.R. report from staff.

Bring back getting an alarm system for the District Office, and possible smoke detector.

Discuss what was problematic about having staff members on sub-committees.

Discuss how to set up the agenda and memos to staff.

Discuss a newsletter.

Discuss the website, hire a webmaster. President Tetreault asked that staff look at Lucy Company used by Reclamation District 800.

Consider and look at options to name something after John Fritz.

Make a presentation about the Fat Trapper.

Discuss Capitol Improvement Items and about having a quarterly report of the progress of these items, regarding their actual progress and budget.

Discuss the meeting that violated the Brown Act and any recommendations that might have come from that meeting and the map that showed the proposed boundaries.

Discuss putting together a committee to monitor the P-6 funds.

**K. ADJOURNMENT**

Director Piepho motioned to adjourn the meeting. Vice-President Simon 2<sup>nd</sup> the motion. The meeting was adjourned at 9:40 pm to the next Regular meeting of February 04, 2009.