

DISCOVERY BAY PUBLIC FINANCING AUTHORITY

Chairperson - Chris Steele • Vice-Chairperson - Kevin Graves • Director - Jim Mattison • Director - Mark Simon • Director - Ray Tetreault

NOTICE OF THE SPECIAL MEETING OF THE
BOARD OF DIRECTORS OF THE
DISCOVERY BAY PUBLIC FINANCING AUTHORITY
Wednesday July 18, 2012
SPECIAL MEETING 7:00 P.M.
1800 Willow Lake Road, Discovery Bay, California
Website address: www.todb.ca.gov

SPECIAL MEETING 7:00 P.M.

A. ROLL CALL AND PLEDGE OF ALLEGIANCE

1. Call business meeting to order 7:00 p.m.
2. Pledge of Allegiance
3. Roll Call

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

During Public Comments, the public may address the Board on any issue within the Authority's jurisdiction which is not on the agenda. The public may comment on any item on the Agenda that is before the Board for consideration. Any person wishing to speak must come up and speak from the podium. There will be no dialog between the Board and the commenter. Any clarifying questions from the Board must go through the Chair.

C. NEW BUSINESS AND ACTION ITEMS

1. Adoption of Resolution No. PFA 2012-01 of the Governing Board of the Discovery Bay Public Financing Authority Declaring Officers, Providing for the Date of its Regular Meetings, and Directing the Filing of Certain Notices
2. Adoption of Discovery Bay Public Financing Authority Bylaws

D. CHAIR'S REPORT AND MEMBER'S COMMENTS

E. LEGAL COUNSEL REPORT

F. ADJOURNMENT

1. Adjourn to the first Regular Meeting on August 1, 2012 at 1800 Willow Lake Road – Located behind the Delta Community Presbyterian Church.

"This agenda shall be made available upon request in alternative formats to persons with a disability, as required by the American with Disabilities Act of 1990 (42 U.S.C. § 12132) and the Ralph M. Brown Act (California Government Code § 54954.2). Persons requesting a disability related modification or accommodation in order to participate in the meeting should contact the Town of Discovery Bay, at (925)634-1131, during regular business hours, at least twenty-four hours prior to the time of the meeting."


"Materials related to an item on the Agenda submitted to the Discovery Bay Public Financing Authority after distribution of the agenda packet are available for public inspection in the Authority's Office located at 1800 Willow Lake Road during normal business hours."

Discovery Bay Public Financing Authority AGENDA REPORT

Meeting Date

July 18, 2012

Prepared By: Cameron A. Weist, Weist Law Firm

Submitted By: Rick Howard, General Manager 

Agenda Title

Adoption of Resolution No. PFA 2012-01 of the Governing Board of the Discovery Bay Public Financing Authority Declaring Officers, Providing for the Date of its Regular Meetings, and Directing the Filing of Certain Notices

Recommended Action

That the Governing Board review this Staff Report and adopt Resolution No. PFA 2012-01

Executive Summary

The Town of Discovery Bay Community Services District (the "Discovery Bay CSD") and the Byron Bethany Irrigation District (the "Byron Bethany Irrigation District") hereafter sometimes referred to as "Members", have heretofore approved the formation of the Discovery Bay Public Financing Authority (the "Authority") through the execution of a joint exercise of powers agreement, dated as of July 1, 2012 (the "PFA Agreement"). Pursuant to the PFA Agreement, the Governing Board of the Authority desires to, among other things, appoint the balance of the initial officers to serve the Discovery Bay Public Financing Authority, and direct the Executive Director to complete all required regulatory filings necessary to properly record the successful formation of the Authority.

Consideration of Resolution No. PFA 2012-01:

1. DECLARATION OF THE OFFICERS

The Board should first decide and declare the Secretary and a Treasurer/Auditor, with the names then inserted where indicated in Paragraph 1 of the Resolution PFA 2012-01.

2. FILING OF REQUIRED NOTICE WITH SECRETARY OF STATE

The Resolution PFA 2012-01 directs the Executive Director to notify the Secretary of State of the formation of the Authority, and to file said notice, together with the appropriate filing fee, if any, within thirty (30) days after the creation of the Authority. Under state law, a notice must be filed with the Secretary of State within thirty (30) days of the creation of a joint exercise of powers agreement.

3. FILING OF ROSTER

The Resolution PFA 2012-01 directs the Executive Director to prepare a public agency roster pursuant to Government Code Section 53051, and to file the same with the Secretary of State of the State of California and with the County Clerk of Contra Costa County within ten (10) days of the creation of the Authority.

4. SELECTION OF TIME AND PLACE OF MEETINGS

Under the joint exercise of powers agreement of regular meeting of the Governing Board of the Authority shall be held at the time and place of each regular meeting of the Board of Directors of the Town of Discovery Bay CSD. In the event an agenda for a regular meeting of the Authority is not posted timely in accordance with the provisions of Section 54954.2 of the Government Code, such regular meeting is cancelled without any further action of any Member, the Governing Board or any officer of the Authority. The Governing Board may hold special meetings at any time and from time to time in accordance with law. The regular meeting place of the Governing Board shall be at the Town of Discovery Bay CSD Offices. The first regular meeting shall be held on August, 1, 2012.

Fiscal Impact:

Amount Requested - None

Sufficient Budgeted Funds Available?: (If no, see attached fiscal analysis)

Previous Relevant Board Actions for This Item

Attachments

Letter from Weist Law Firm – Discovery Bay Public Financing Authority dated June 27, 2012
Resolution No. PFA 2012-01

AGENDA ITEM: C-1



June 27, 2012

Mr. Richard J. Howard
General Manager
Town of Discovery Bay CSD
1800 Willow Lake Road
Discovery Bay, CA 94505-9376

Re: Discovery Bay Public Financing Authority

Dear Rick:

Enclosed please find Resolution No. JPA-01 and the corresponding agenda report necessary to hold the first official meeting of the Authority and take certain actions in regard thereto.

Set forth below are some of the administrative issues of which you should be aware in exercising the powers of the Authority:

1. As set forth in Resolution No. JPA - 01, Rick, as the Executive Director of the Authority, you are to file various notices with the Secretary of State and with the County of Contra Costa. Our office will provide you the standard forms which must be used to make the filings, along with corresponding cover letters relating thereto.
2. The Authority's Treasurer/Auditor is required to prepare a budget for the Authority annually, if necessary. This is required only if the Authority will have any general fund monies. So long as the Authority is acting in the capacity of a financing conduit, or is holding funds in trust pursuant to a bond issue, there is no requirement that a budget be adopted. Presently, there is no need for a budget.
3. The JPA Agreement as well as the Government Code requires the Authority to cause to be prepared an annual audit of the accounts of the Authority. The audit should conform to Government Code Section 26909 and generally accepted auditing standards. The report may be combined with the annual audit of the Discovery Bay CSD, as long as the affairs of the Authority are accounted for separately in the combined audit. Each such audit must be filed as a public record with both Discovery Bay CSD, Byron Bethany Irrigation District (BBID), as well as with Contra Costa County [and any other county that overlaps boundaries of either BBID or Discovery Bay CSD]. The audit must be complete within 12 months of year end.
4. Under the joint exercise of powers agreement the regular meeting of the Governing Board of the Authority shall be held at the time and place of each regular meeting of the Board of Directors of the Discovery Bay CSD. In the event an agenda for a regular meeting of the Authority is not posted timely in accordance with the provisions of Section 54954.2 of the Government Code, such regular meeting is



cancelled without any further action of the any Member, the Governing Board or any officer of the Authority. The Governing Board may hold special meetings at any time and from time to time in accordance with law. The regular meeting place of the Governing Board shall be at the Discovery Bay CSD Offices. The first regular meeting shall be held on August 1, 2012. Of course, the Authority is free to call special meetings at any time, so long as it complies with the Brown Act. In addition, the Authority may, by resolution, change the time and place of meetings.

5. Resolution No. JPA - 01 declares a Chairperson, Vice-Chairperson, Executive Director, Secretary and a Treasurer/Auditor of the Authority, which officers and each of their names are set forth in Sections 1 and 2 thereof.

6. Should there be any change whatsoever in the members of the Governing Board or the other officers of the Authority, a "Roster of Public Agency Filing" must be made with the Secretary of State and the County of Contra Costa Elections Departments within ten days of each said change.

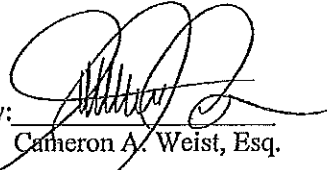
The paragraphs above merely paraphrase the Agreement, and therefore the Agreement should be consulted for any particulars. The administrative conditions set forth in the Agreement may seem somewhat onerous; however, if some sort of tickler system could be developed for the above actions, the Authority will run very smoothly.

Four copies of the JPA Agreement should be signed by the appropriate officers. One copy should be forwarded to our office. One copy should be filed with the Discovery Bay CSD as an attachment to the Resolution approving the JPA Agreement. One copy should be filed with the Byron Bethany Irrigation District as an attachment to the Resolution approving the JPA Agreement. The other copy should be filed with the newly created Authority files, as an attachment to Resolution No. JPA-01. This JPA Agreement is the equivalent to the By-Laws of a corporation and should be treated with the same respect.

Please contact me immediately if you have any questions, concerns or requests.

Respectfully Submitted,

THE WEIST LAW FIRM

By: 
Cameron A. Weist, Esq.

**DISCOVERY BAY PUBLIC FINANCING
AUTHORITY**

RESOLUTION NO. PFA 2012-01

A RESOLUTION OF THE GOVERNING BOARD OF THE
DISCOVERY BAY PUBLIC FINANCING AUTHORITY
DECLARING OFFICERS, PROVIDING FOR THE DATE
OF ITS REGULAR MEETINGS, AND DIRECTING
THE FILING OF CERTAIN NOTICES

DISCOVERY BAY PUBLIC FINANCING AUTHORITY

WHEREAS, the Town of Discovery Bay CSD (the "Discovery Bay CSD") and the Byron Bethany Irrigation District (the "Byron Bethany Irrigation District"), hereafter sometimes referred to as "Members," have heretofore approved the formation of the Discovery Bay Public Financing Authority (the "Authority") through the execution of a joint exercise of powers agreement, dated as of July 1, 2012 (the "PFA Agreement"); and

WHEREAS, pursuant to Article V of the PFA Agreement the Governing Board of the Authority (the "Governing Board") shall be constituted of all of the individuals who, at any given time, are the sworn members of the Board of Directors of the Town of Discovery Bay CSD; and

WHEREAS, pursuant to Article VII of the PFA Agreement, the Governing Board is to be presided over by a Chairperson and Vice-Chairperson who shall be the same individuals who are the President and Vice-President, respectively, of the Town of Discovery Bay CSD at any given time; and

WHEREAS, pursuant to Article VII of the PFA Agreement, the General Manager of the Town of Discovery Bay CSD shall serve as the Executive Director of the Authority; and

WHEREAS, pursuant to Article VII of the PFA Agreement, the Governing Board desires to appoint a Secretary, and a Treasurer/Auditor; and

WHEREAS, Article IX of the PFA Agreement, requires the Governing Board to adopt an annual budget for the current fiscal year of the Authority, unless the Authority anticipates no income and no liabilities in such fiscal year; and

WHEREAS, Section 6503.5 of the Government Code of the State of California requires the notification of the creation of a joint powers entity with the Secretary of State within thirty (30) days after said creation; and

WHEREAS, Section 53051 of the Government Code of the State of California requires the filing of a public agency roster with the Secretary of State and the County Clerk of each county in which the public agency maintains an office within ten (10) days after the creation of the public agency; and

WHEREAS, Section 6505.1 of the Government Code of the State of California requires the person in charge of having access to any property of the Authority to file an official bond;

NOW, THEREFORE, THE GOVERNING BOARD OF THE DISCOVERY BAY PUBLIC FINANCING AUTHORITY DOES HEREBY FIND, ORDER AND DETERMINE:

SECTION 1. Pursuant to the PFA Agreement, the initial presiding officers of the Authority shall be the same individuals who are the President and Vice-President, respectively, of the Town of Discovery Bay CSD, which person's names and titles are set forth below. The officers of the Authority shall preside over the Governing Board so long as the persons holding said offices are the duly sworn and active officers of the corresponding Member, as set forth below.

Name/Member/Office

Authority Office

Chris Steele/ President
Kevin Graves/ Vice-President

Chairperson
Vice-Chairperson

SECTION 2. Pursuant to the PFA Agreement, the initial administrative officers of the Authority shall be the same individuals who are the General Manager, Secretary and Finance Manager, respectively, of the Town of Discovery Bay CSD, which persons names and titles are set forth below. The officers of the Authority shall administer the affairs of the Authority so long as the persons holding said offices are the duly appointed and active corresponding administrative officers of the Town of Discovery Bay CSD.

Name/Member/Office

Authority Office

Richard J. Howard / General Manager
Richard J. Howard / Secretary
Dina Breiinstein / Finance Manager

Executive Director
Secretary
Treasurer/Auditor

SECTION 3. That the Executive Director notify the Secretary of State of the formation of the Authority, and file said notice, together with the appropriate filing fee, if any, within thirty (30) days after the creation of the Authority.

SECTION 4. That the Executive Director prepare a public agency roster pursuant to Government Code Section 53051, which public agency roster shall be filed with the Secretary of State of the State of California and with the County Clerk of Contra Costa County within ten (10) days of the creation of the Authority. Such a public agency roster shall include the following information:

- (1) The full legal name of the Authority.
- (2) The official mailing address of the Governing Board of the Authority.
- (3) The name and residence or business address of each member of the Governing Body of the Authority.
- (4) The name, title, and residence or business address of the Chairperson and Secretary of the Governing Body of the Authority.

Said roster shall be on a form prescribed by the Secretary of State.

The Executive Director is hereby authorized and directed to file an amended public agency roster with the Secretary of State of the State of California and with the County Clerk of Contra Costa County within ten (10) days after any change in the facts required to be stated pursuant to Government Code Section 53051.

SECTION 5. That the Treasurer/Auditor and Executive Director procure a bond in compliance with Government Code Section 6505.1.

SECTION 6. That the Authority shall not be required to adopt an annual budget for Fiscal Year 2011-12 or 2012-13 because the Authority does not expect to hold moneys, and in the event moneys are held, it is expected to be incident to (i) the Authority acting merely as a financial conduit for any Member or for any bond issue, or (ii) the Authority holding moneys in trust as a part of a bond issue or other type of financing. If in the future the Authority anticipates it will be receiving and/or disbursing general fund moneys, then the Governing Board shall adopt an annual budget as soon as possible for the first Fiscal Year in which said moneys are going to be received and/or disbursed, and not later than thirty (30) days prior to the beginning of each Fiscal Year thereafter.

SECTION 7. That the Authority shall hold its first regular meeting on August 1, 2012, and thereafter, shall be held corresponding at the time and place of each regular meeting of the Board of Directors of the Town of Discovery Bay CSD. In the event an agenda for a regular meeting of the Authority is not posted timely in accordance with the provisions of Section 54954.2 of the Government Code, such regular meeting is cancelled without any further action of any Member, the Governing Board or any officer of the Authority. The Governing Board of the Authority may hold a special meeting at any time. Furthermore, the Governing Board of the Authority may, by resolution adopted at a regular or special meeting, declare that regular meetings occur at a date or dates, and at times, different from that set forth in this paragraph.

THE FOREGOING RESOLUTION WAS PASSED AND ADOPTED by the members of the Discovery Bay Public Financing Authority at its first meeting held on this July 18, 2012, by the following roll call vote;

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

V. Chris Steele, Chairman of the Discovery Bay
Public Financing Authority

Richard J. Howard, Secretary of the Discovery Bay
Public Financing Authority

BYLAWS
OF THE
DISCOVERY BAY PUBLIC FINANCING AUTHORITY

Adopted July 18 2012

ARTICLE 1 – THE AUTHORITY

Section 1.1 Name. The official name of the Authority shall be the “Discovery Bay Public Financing Authority”.

Section 1.2 Authority Board Members. The Authority shall be administered by a governing board (“Board”) consisting of five (5) members of which shall be appointed by the Board of Directors of the Town of Discovery Bay Community Services District (“District”), and shall be members of the Board of Directors of the District. The term of office as a member of the Board shall terminate when such member of the Board shall cease to be a member of the Board of Directors of the District; and the successor to such member of the Board of the District shall become a member of the Board, upon assuming such office.

Section 1.3 Office. The business office of the Authority shall be at 1800 Willow Lake Road, Discovery Bay, California 94505, or at such other place as may be designated by the Board.

Section 1.4 Compensation. Board members may receive their actual and necessary expenses, including traveling expenses incurred in the discharge of their duties, but only when authorized by the Authority and if there are unencumbered funds available for such purpose.

ARTICLE 2 – OFFICERS

Section 2.1 Officers. The Officers of the Authority shall be the Chair, Vice-Chair, Executive Director, Secretary, and Treasurer/Auditor.

Section 2.2. Chair. The Chair of the Authority shall be the person who is the President of the District. The term of the office shall be the same as the term of the President of the District. The Chair shall preside at all meetings of the Authority, and shall submit such information and recommendations to the Board as he or she may consider proper concerning the business, policies and affairs of the Authority.

Section 2.3 Vice-Chair. The Vice-Chair of the Authority shall be the person who is the Vice-President of the District. The term of the office shall be the same as the term of the Vice-President of the District. The Vice-Chair shall preside at all meetings of the Authority whenever the Chair is absent.

Section 2.4 Executive Director. The Executive Director shall be the person who is the General Manager of the District. The term of the office shall be the same as the term of the General Manager of the District. The General Manager shall serve as the chief executive officer of the Authority and shall be responsible for execution and supervision of the affairs of the Authority. Except as otherwise authorized by resolution of the Board, the General Manager or the General Manager’s designee shall sign all contracts, deeds, leases and other instruments executed by the Authority.

Section 2.5 Secretary. The Secretary shall be the person who is the Secretary of the District and shall serve at the pleasure of the Authority. The Secretary shall keep the records of the Authority, shall act as Secretary at the meetings of the Authority and record all votes, and shall keep a record of the proceedings of the Authority in a journal of proceedings to be kept for such purpose, and shall perform all duties incident to the office.

Section 2.6 Treasurer/Auditor. The Treasurer shall be the person who is Treasurer of the District. The term of the Treasurer shall be the same as the Treasurer of the District. The Treasurer shall perform the duties as set forth in the Joint Exercise of Powers Agreement.

Section 2.7 Election of Officers. Confirmation of officers shall be the first order of business at the first meeting of the Authority, regular or special, held in each calendar year.

Section 2.8 Authority to Bind Authority. No member, officer, agent or employee of the Authority, without prior specific or general authority by a vote of the Board, shall have any power or authority to bind the Authority by any contract, to pledge its credit, or to render it liable for any purpose in any amount.

ARTICLE 3 – EMPLOYEES AND AGENTS

Section 3.1 Appointment of Employees and Agents. The Authority may from time to time request from the District the services of such personnel, counsel or agents, permanent or temporary, as may be necessary to carry out the business and affairs of the Authority. The Board may in addition employ temporary professional and technical personnel on such terms and at such rates of compensation as the Board may determine, for the performance of the Authority business and affairs, provided that adequate source of funds are identified for the payment of such temporary professional and technical services.

ARTICLE 4 – MEETINGS

Section 4.1 Regular Meetings. Regular meetings shall be held at the business office of the Authority, or at such other place as the Chair or the Board may designate, on such dates and at such times as fixed by Resolution of the Authority. If at any time any regular meeting falls on a legal holiday, such regular meeting shall be held on the next business day at the same time. At least 72 hours before a regular meeting, an agenda containing a brief general description of each item of business to be transacted or discussed shall be posted at a location freely accessible to members of the public. The agenda shall specify the time and location of the regular meeting. No action shall be taken on any item not appearing on the posted agenda except as permitted by law.

Section 4.2 Special Meetings. A special meeting may be called at any time by the Chair or upon the request of three of the members of the Board by delivering written notice to each member and to each person or entity entitled by law to receive such notice. Notices to the Board shall be sufficient if delivered to the Secretary. Notices to other persons or entities entitled by law to receive notices must be delivered personally or by mail and must be received at least 24

hours before the time of such meeting as specified in the notice. The notice shall specify the time and place of the special meeting in a location that is freely accessible to members of the public. No other business shall be considered at such meetings by the Board. Such written notice may be dispensed with as to any Board member who at or prior to the meeting convenes files with the Secretary of the Authority a written waiver of notice. Such waiver may be given by telegram or fax. Such written notice may also be dispensed with as to any member who is actually present at the time it convenes.

Section 4.3 Public Meeting. All meetings of the Board of Directors of the Authority shall be called, noticed, held and conducted in accordance with the Ralph M. Brown Act (commencing with Section 54950, et. seq. of the California Government Code).

Section 4.4 Parliamentary Procedure. The rules of parliamentary procedure set forth in Rosenberg's Rules of Order shall govern all meetings of the Authority, except as otherwise herein provided.

ARTICLE 5 – AMENDMENTS

Section 5.1 Amendments to the Bylaws. These bylaws may be amended by the Board at any regular or special meeting by majority vote, provided that a description of the proposed amendment to any particular section is included in the notice of such meeting.

I hereby certify that the foregoing is a full, true and correct copy of the Bylaws duly adopted by the Discovery Bay Public Financing Authority on July 18, 2012.

Secretary