

that a resident may be looking to hire private security on Calle Arroyo by indicating that the Sheriff will speak to that homeowner should such security be implemented and/or if issues arise.

FINANCIAL:

Director Isom

Presentation of financial reports from Quarters 3 and 4, 2019 and update on new District Accountant.

Director Isom presented the financial reports for the last quarter and thanked Director Urbelis for her work getting the District's new accountant up to speed. He also stated that legal fees were higher than anticipated due to the ongoing litigations against the District. He continued about the annual audit which is slightly behind schedule due to the transferring accounting software systems but that it should be done in a timely manner.

Director Urbelis stated that she is working with the accountant to make sure the audit and all financial issues are sorted out.

ROADS:

Director Becker

President Brant spoke about the roads on behalf of Mr. Becker and the District is considering repainting speed bumps and addresses.

4. ACTION ITEMS:

- a) El Nido Culvert - Approve expenditure in an amount not to exceed \$45,000 for emergency repairs for the culvert that crosses El Nido adjacent to the first green of the golf course.

President Brant reported that a proposal to provide oversight of needed maintenance to the culvert on El Nido was received from ENGEEO Engineering. The District received a separate proposal from MIKSIS Services to perform the actual maintenance and repair/re-lining of the culvert. President Brant requested that the Board approve an expenditure in an amount not to exceed \$45,000 which includes approximately \$5,000 for ENGEEO's oversight services and \$40,000 for MIKSIS's maintenance work.

Board approved expenditure of an amount not to exceed \$45,000 with the understanding that District Counsel will review the proposed contracts. Moved by Urbelis; 2nd Isom; approved 5-0.

- b) Consider adoption of Resolution 20-01, finding that continued provision of District funds for services for Calle Arroyo serves a primarily public purpose and rescinding Resolution 19-01.

District Counsel Crawl introduced the resolution which was prepared due to certain threats by a single plaintiff from the previously settled Tiernan, et al. v. DCSD lawsuit, as well as due to the presence of certain typographical errors in Resolution 19-01. District Counsel explained that the District previously adopted Resolution 19-01, which found that continued expenditure of District funds to provide services to Calle Arroyo would serve a primarily public purpose. District Counsel further explained that one of the findings in Resolution 19-01 stated that one of the reasons that the District's continued expenditure of funds to serve Calle Arroyo would serve a public purpose was because people may utilize Calle Arroyo to get to the post office. The plaintiff threatening the District with further litigation indicated that he objected to that language in Resolution 19-01 and requested the District rescind that language. Given that Resolution 19-01 (and now Resolution 20-01) contain substantial evidence to continue to support the finding that expenditure of District funds to provide services to Calle Arroyo would serve a primarily public purpose, and given that the District wants to avoid additional litigation, and given that there existed a typographical error in Resolution 19-01, the District has good reasons to adopt Resolution 20-01.

Director Eorio stated that he would again oppose the new resolution as he feels that the resolution is a direct violation of the Gift Clause of the State Constitution which prohibits the expenditure of public funds for private benefits. He also stated that this action violates the Districts Formation Documents which states that this District maintains roads within the District that are subject to a "public right of way." Since Calle Arroyo is now a private road, he cannot support the resolution.

Director Becker reiterated his support of the revised resolution just as he supported the original resolution and that he did not see how this violates the gift clause.

Director Urbelis stated that she did not support the original resolution and will not be supporting the revised resolution.

Director Isom supported the original resolution and stated that he supports the new one as well.

Resolution 20-01 approved. Move to approve by Becker; 2nd, Isom; approved 3-2 with Directors Eorio and Urbelis voting no.

Comments from the audience, Mr. Salvo asked the Board if this resolution can be overturned in the future. Counsel Crowl responded that this Board or a future Board could rescind this resolution or any other resolution adopted by the District.

- c) Consider whether to continue membership in the California Special District Association. Item continued.

President Brant indicated that this item would be continued to a future meeting.

5. **COMMENTS BY DIRECTORS:**

Director Eorio acknowledged and thanked the Diablo Property Owners Association for their participation with the District at the annual Holiday Open House.

President Brant thanked the DPOA for their assistance with the holiday party and recommended it become an annual event.

Director Urbelis stated that apparently the State is having a survey done of Mt. Diablo Scenic as there are surveyors out working.

- 6. **ADJOURNMENT.** Meeting adjourned at 8:00 pm. The next DCSD Regular Board meeting is scheduled for February 11, 2020 at 7:30 pm in the Diablo Room of the Diablo Country Club.

Diablo Community Services District by

Jeff Eorio, Secretary