

**DIABLO MUNICIPAL ADVISORY COUNCIL  
BOARD OF DIRECTORS  
REGULAR MEETING AGENDA  
TELECONFERENCE VIA THE APPLICATION ZOOM  
TUESDAY, AUGUST 11, 2020 7:30 p.m.**

**CORONAVIRUS DISEASE (COVID-19) ADVISORY AND MEETING PROCEDURE**

On March 19, 2020 the Governor issued Executive Order N-33-20, ordering all residents in the State of California to shelter at their place of residence, with the exception of those who may leave to provide or receive critical services, as defined in Order N-33-20.

Under the Governor's Executive Order N-29-20, Diablo Community Services District may utilize teleconferencing for their meetings, as a precaution to protect the health and safety of staff, officials, and the general public. Board members will be participating via teleconference. As such, there will be no physical location for members of the public to participate in this meeting.

All members of the public seeking to observe and/or address the Board may participate in the meeting in the manner described below.

This meeting can be viewed on the web-video communication platform Zoom.

**ZOOM WEBSITE:** <https://zoom.us/j/4680449859>

**MEETING ID:** 468 044 9859

Listen to the meeting live by calling Zoom.

**CALL IN (AUDIO) PHONE NUMBER:** Call (346) 248-7799 or (669) 900-9128 and enter the Meeting ID# 468 044 9859 followed by the pound (#) key. More numbers can be found at <https://zoom.us/uabb4GNs5xM> if the line is busy.

To submit public comments on an agenda item before the meeting, please email your comments to [generalmanager@diablocsd.org](mailto:generalmanager@diablocsd.org). In the body of the email, include the agenda item number and title as well as your comments. All comments must be received before 12:00 PM the day of the meeting to be included. If you would like your emailed comment to be read aloud at the meeting (not to exceed 3 minutes at staff's cadence) prominently write "Read Aloud at Meeting" at the top of the email. During the meeting, the Board President or designee will announce the opportunity to make public comments and the procedure for doing so. Emailed comments received after the close of the public comment period will be added to the record after the meeting.

**CALL TO ORDER:**

**President: Ray Brant**

**ROLL CALL:**

**Secretary: Jeff Eorio**

**Brant, Urbelis, Becker, Eorio, Isom**

- PUBLIC COMMENTS:** *Public comments will be taken only on items listed on the special meeting agenda. Public comments on non-agendized items should be raised at a regular board meeting. Public comments are limited to 3 minutes per person when speaking in English, and 6 minutes per person when using a translator. Comments by the audience are not intended to result in a dialogue between members of the audience or between the audience and the Board. Please note that under Brown Act regulations, no member of the Board may engage in any discussion, other than a brief comment or request for clarification, of any item raised by any member of the audience unless that item is included as an agenda item.*

**2. ANNOUNCEMENT:**

a. Provide update on County Zoning Administrator's review of tree removal and water detention basin permits for the Scarpelli property located at the corners of La Cadena, Avenida Nueva and Calle Los Callados.

**3. ACTION ITEM:**

a. Approve minutes of July 1, 2020 Special Meeting.

b. Approve minutes of July 13, 2020 Special Meeting.

**4. CALL OF NEXT MEETING/ADJOURNMENT:** The next DMAC Regular Board meeting is scheduled for September 8, 2020 at 7:30 p.m. via Zoom.

Diablo Community Services District by

Kathy Torru, General Manager  
generalmanager@diablocsd.org

DCSD Board Meetings are accessible to people with disabilities and others who need assistance. Individuals who need special assistance or a disability-related modification or accommodation (including auxiliary aids or services) to observe and/or participate in this meeting; or who have a disability and wish to request an alternative format for the agenda, meeting notice, agenda packet, or other writings that may be distributed at the meeting should contact the General Manager at least one working day before the meeting at (925) 683-4956 or [generalmanager@diablocsd.org](mailto:generalmanager@diablocsd.org). Notification in advance of the meeting will enable the District to make reasonable arrangements to ensure accessibility to this meeting and the materials related to it. Public records that relate to any item on the open session agenda are available for public inspection by contacting the General Manager and on the District's website <http://diablocsd.org>.

**DIABLO MUNICIPAL ADVISORY COUNCIL  
BOARD OF DIRECTORS  
MINUTES  
TELECONFERENCE VIA THE APPLICATION ZOOM  
WEDNESDAY, JULY 1, 2020 7:30 p.m.**

**CALL TO ORDER:** President Ray Brant called the meeting to order at 7:30 p.m.

**ROLL CALL:** Secretary Jeff Eorio called the roll as follows:

**Directors present:** Brant, Urbelis, Becker, Eorio, Isom

**Directors absent:**

Director Brant welcomed Directors and the general public and stated that in response to the Governor's Executive Order N-33-20 the District would be using teleconferencing (via Zoom) to conduct the Regular Board Meeting.

**COMMENTS FROM THE AUDIENCE:** None

**ACTION ITEMS:**

Director Eorio presented neighbors' concerns and questions concerning the tree removal permit and water detention basin permit identified in the Department of Conservation and Development County Zoning Administration Staff Report for County File #CV19-0107 & TP19-0058 (the Property-property located at corner of Calle Los Callados and Avenida Nueva) slated for a public hearing on Monday July 6<sup>th</sup>. See *Attachment A* for a summary of those concerns and questions.

Todd Vitzthum, neighbor and individual with an option to financially participate in the project, presented to the Board the engineering work that had gone into addressing the drainage issues impacting the Property and the adjacent neighbors. He explained that his proposed water detention basin and drainage system is a vast improvement over what exists today and what is currently approved as part of the existing land use permit on the Property. Furthermore, Mr. Vitzthum stated that less water will flow through the existing drainage system and into the East Branch of the Green Valley Creek as a result of his proposed water detention basin and drainage system plan. Mr. Vitzthum stated that he is building his family home on one of the downstream properties impacted by this proposed drainage system and pointed out that it is in his personal interest to make sure that the proposed drainage system is the best possible option. Mr. Vitzthum offered to provide residents and Board members a tour of the Property and answer any questions and/or concerns.

The Board thanked Mr. Vitzthum for taking the time to attend tonight's meeting and addressing the Board's concerns and questions. The Board acknowledged that the County, not Mr. Vitzthum, was at fault for providing fewer than 4 business days for neighbors to review the notice and understand the impact of the water detention basin. And while the Board was sympathetic to Mr. Vitzthum's desire to move forward with the hearing on July 6<sup>th</sup>, the Board felt it was important to provide neighbors with an adequate amount of time to review the project in advance of the hearing.

On a motion of Director Eorio and second by Director Urbelis, the Board directed the General Manager to contact the County planner regarding County File #CV19-0107 & TP19-0058 (property located at corner of Calle Los Callados and Avenida Nueva), and request a delay of the July 6<sup>th</sup> hearing date by 14 days to allow neighbors time to study the impact of the water detention basin on the adjacent properties and East Branch of the Green Valley Creek.

The motion was unanimously approved by the Directors.

**CALL OF NEXT MEETING/ADJOURNMENT:**

The President called the next meeting for August 11<sup>th</sup> . There will be *no* July meeting.

The format of the next meeting is unknown at this time so please check the website for updates. There being no further business, the President adjourned the meeting at 8:30 p.m.

Diablo Community Services District by

Kathy Torru, General Manager

## **Attachment A**

### **Questions regarding Public Hearing on July 6, 2020**

#### **CCC File #CV10-0107 & TP 19-0059**

The Diablo Community Services District/Diablo Municipal Advisory Committee should have received this application for review prior to a public hearing. There are many implications that the District/Committee needs to weigh on and this should have been brought through the proper channels prior to a public hearing.

Per the DCD County Zoning Administrator's Staff Report, it is recommended that 9 Valley Oak trees be removed. It is nearly impossible to identify the impacted trees as most of the tree #'s have been scratched off their tags for some reason so we cannot exactly tell which trees are to be removed, so all trees need to be re-tagged as soon as possible so the community understands which trees are impacted. Additionally, why are all 9 trees recommended for removal when only 3 are within the proposed detention basin and the other 6 seem to be very healthy and any storm drain proposed within the area of these 6 trees can easily accommodate the proposed storm drain without the removal of these 6 Valley Oaks.

It appears that the existing concrete swale (on adjacent property) that eventually connects to a concrete catch basin on another adjacent property is all off the applicant's property. Has the applicant received permission to utilize privately held storm drains from all affected property owners downstream from the applicant's property to the outfall assumed to be on the East Branch of Green Valley Creek?

The adjacent property owner (Burman) has an existing concrete swale that then connects to a concrete catch basin on another property owner's property (Hamilton), has the applicant contacted either property owner for permission to access their storm drain or their property? If not, why not?

Has the existing storm drain been videoed to see if it has the capacity and the structural integrity to handle the new run off from beginning to end, from the applicant's property to the outflow on the East Branch of Green Valley Creek? If not, why not?

Who would be responsible for any downstream failures of the existing storm drain system into the future, the affected property owner or all of the impacted property owners? How would this be assured? There should be a maintenance agreement put in place for such an eventuality. The DCSD/DMAC does not assume responsibility for any private storm drains in Diablo.

Regarding the detention basin proposed on the south west parcel, will it be designed per current GSI standards? Will all three parcels drain to this new detention basin? The staff report states that the owner of parcel A will be responsible for the maintenance of the retention basin. Why just one property owner when all three properties benefit? Why not make all three parcels be jointly responsible for the ongoing and into perpetuity the maintenance of this detention basin? How will the maintenance of this retention basin be accomplished, through assessments of an HOA or assessment district? Who will monitor the successful maintenance of this detention basin, CCC Flood Control or another public agency (not the DCSD/DMAS) or will this be left to the property owners to figure out? In a default situation, will CCC Vector Control or Flood Control step in? What is the process.

Homeowners want the construction access to be off of La Cadena as Calle Lose Callados is very narrow and on the route to the Country Club and the US Post Office, in the section designated as "construction access" and should be directed to a street with very little traffic, i.e. La Cadena.

This application should be withdrawn until such time the applicant can assure the District/DMAC that the concerns we have are addressed in a satisfactory manner.

**DIABLO MUNICIPAL ADVISORY COUNCIL  
BOARD OF DIRECTORS  
MINUTES  
TELECONFERENCE VIA THE APPLICATION ZOOM  
MONDAY, JULY 13, 2020 6:00 p.m.**

**CALL TO ORDER:** President Ray Brant called the meeting to order at 6:00 p.m.

**ROLL CALL:** Secretary Jeff Eorio called the roll as follows:

**Directors present:** Brant, Urbelis, Becker, Eorio, Isom

**Directors absent:**

Director Brant welcomed Directors and the general public and stated that in response to the Governor's Executive Order N-33-20 the District would be using teleconferencing (via Zoom) to conduct the Regular Board Meeting.

Director Brant clarified for the audience the duties and responsibilities of the DCSD and DMAC. The DCSD was granted the following limited powers by LAFCO and the Contra Costa County Board of Supervisors.

- Provide Security within Diablo, which is contracted through the Contra Costa County Sheriff Department.
- Maintain Diablo Roads and Bridges, and Culverts that are directly under the roads.
- Maintain Kay's Trail.

The DMAC is authorized by the Contra Costa Board of Supervisors to make recommendations on Diablo land use issues when requested by the County or adjacent neighbors.

**COMMENTS FROM THE AUDIENCE:** None

**ACTION ITEM: \***

Director Brant walked the Directors and members of the audience through the eight questions and answers identified in Exhibit A of the meeting agenda concerning the permit request for the removal of 9 oak trees and the construction of a water detention basin on the Scarpelli property, located at the corners of La Cadena, Avenida Nueva and Calle Los Callados. Jeff Stone, developer, and Todd Vitzthum, neighbor and individual with an option to financially participate in the project, answered questions from Directors and provided clarification where needed.

By a unanimous vote, DMAC instructed the General Manager to provide the following comments to the Contra Costa County Department of Conservation and Development concerning the permit request for the removal of 9 oak trees and the construction of a water detention basin (County Files #CV19-0107 & TP19-0058) on the Scarpelli property:

- DMAC requests that a video of all existing drainage pipes between the water detention basin site and the East Branch of the Green Valley Creek be videotaped and reviewed by the County engineer before the tie in of the drainage improvements is approved.
- DMAC requests that as a condition of approval, an arborist, preferably Bob Peralta with BrightView who has already been working on the site for the developer, be on site when the developer is working under the dripline of any oak tree on the property.
- DMAC requests that the developer allow DMAC a courtesy review of the final site plan showing the impact of the three new homes and hardscape on the existing oak trees prior to County approval.

**CALL OF NEXT MEETING/ADJOURNMENT:**

The President called the next meeting for August 11<sup>th</sup> .

The format of the next meeting is unknown at this time so please check the website for updates. There being no further business, the President adjourned the meeting at 7:00 p.m.

Diablo Community Services District by

Kathy Torru, General Manager

**\*Subsequent Events:**

DMAC comment letter to County was modified to include a new third comment (above third comment changed to fourth)

- DMAC requests that the Parcel A deed disclosure be modified to include “Failure to properly maintain the proposed water detention basin may result in punitive fines levied by either the County or District until compliance is achieved.”

The County Zoning Administrator approved the drainage and tree removal permits at the July 20<sup>th</sup> 2020 public hearing subject to the following modifications:

- The Heritage Oak on Parcel C must be clearly identified and protected
- All trees being removed and preserved must be clearly labeled
- The Heritage Oak on Parcel C must be reviewed by an arborist before and after work is performed
- No variances are approved with this permit. Any future variance requests will require a public hearing.
- DMAC comment 1 (drainage video) was accepted
- DMAC comment 2 (arborist on site) was accepted for the purpose of preserving trees.
- DMAC comment 3 (deed amendment) was accepted but modified to reflect a fine by Vector Control, not County.
- DMAC comment 4 (DMAC review of final site plan) was accepted
- Accept the hydraulic (water flow calculations) process as is, but requests that a copy of the final hydraulic report be shared with Maryann Cella.