

**DIABLO COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTORS MEETING
MINUTES
TELECONFERENCE VIA THE APPLICATION ZOOM
FEBRUARY 14, 2023, 7:30 p.m.**

CALL TO ORDER: President Kathy Urbelis called the meeting to order at 7:30 p.m.

President Urbelis welcomed Directors and the public and explained the rules for public comment.

ROLL CALL: President Urbelis called the roll as follows:

Directors present: Urbelis, Cox, Chartier, Lorenz, Slavonia

Directors absent: None

PUBLIC COMMENTS:

Nicola Place, see attached correspondence regarding upper Mt Diablo Scenic Blvd safety.

David Mackesey stated that the DCSD President needs to be elected by the current Board.

BOARD/STAFF COMMUNICATION AND ACTIONS:

ADMINISTRATIVE:

Uri Eliahu, ENGEO Inc. president, and Haley Ralston, ENGEO project geologist, made a presentation on Geological Hazard Abatement Districts (GHADs) and educated the Directors on the history, formation, and benefits of a GHAD and answered questions from the Directors and public in attendance. There was consensus amongst the Directors that more research is needed before moving forward with a GHAD feasibility study. There was no motion to adopt Resolution 2023-03.

President Urbelis opened for discussion an amendment to DCSD Bylaw Article V Section 1. General Manager Torru read several emailed public comments attached in Exhibit A. Public comments were made by David Mackesey and Maryann Cella stating their position that the Board Officers should be elected by the current Board. Tony Geisler commented that it is inappropriate for an officer once elected to remain in that position for life without being reelected periodically. This is a procedural issue and not a reflection on the person holding the office.

On motion of Director Slavonia, second by Director Chartier, the Board voted to direct staff to bring back a resolution amending the DCSD Bylaw Article V Section 1 to remove the current language regarding election of officers from the description of each office, and to provide that officers are elected every two years by the Board following the election, beginning immediately and including this past election. The motion passed 5-0.

President Urbelis presented the changes to state law and the Governor's declaration of emergency, which require DCSD Regular Meetings to move from remote teleconference to in-person. The DCSD does not have access to both audio and visual technology to enable hybrid meetings, so the Board will be operating under the "Traditional Brown Act Teleconferencing" in-person meeting format. Effective March 1, 2023, the DCSD Board meetings will be held in-person at the Diablo Country Club portable lounge.

FINANCE:

General Manager Torru presented the District’s financial results for the first six months of FY 2023 ending December 31, 2022. The District has \$785k in cash on hand on December 31, 2022. The financial report is available for review on the District’s website www.diablocsd.org under the Documents tab.

General Manager Torru presented the FY 2022 State Financial Transaction Report. The report was filed with the State of California in January and a copy is available for review on the District’s website www.diablocsd.org under the Documents tab.

ROADS:

General Manager Torru presented an update on the 2022-23 Winter Storm damage. The asphalt failures at 1615 Club House Rd, the mid-Alameda Diablo bridge, and the Caballo Ranchero bridge will be repaired next week by Asphalt Surfacing Inc at cost of \$55k. An email will go out to residents later this week informing them of the road and bridge work, the closures, and the detour. ENGEO will be overseeing the project.

General Manager Torru reported that the 2022-23 Winter Storm costs to date total \$327k. The District does not anticipate material additional costs. The District has not made a determination as to who will be responsible for these costs.

Director Cox presented for discussion the District’s encroachment procedures for tree and creek emergency response. Directors Cox and Lorenz, and General Manager Torru will draft a simplified encroachment ordinance for the Board to review at the March 14 meeting.

SECURITY:

Deputy Buergi stated that there were no incidents to report, and that weather and the related traffic are the biggest issues.

CONSENT CALENDAR:

On motion of Director Urbelis, second by Director Lorenz, the Directors unanimously approved the consent calendar 5-0, subject to a change requested by Director Chartier to the January 10, 2023, minutes. The first sentence in the last paragraph on page 1 of the minutes will be amended to read:

“Director Chartier made a motion to continue the election of officers until next month so that the President, Vice President, and Secretary can be elected by the current Board.”

REPORTS:

CONTRA COSTA COUNTY: None.

DIABLO PROPERTY OWNERS REPORT: Leslie Keane DPOA President, reported the DPOA kicked off its 2023 contribution campaign this past month and that resident response has been strong. The updated Diablo Directory has been emailed to all residents and hard copies of the Directory will be available from the DPOA upon request. The Diablo Honors luncheon, honoring residents who have lived in Diablo for 50 years, was held this past week at Roundhill Country Club. The luncheon was well attended and received. The 2022 Diablo Citizen of the Year is Kathy Torru.

DIABLO COUNTRY CLUB: None

DIRECTOR COMMENTS: None

FUTURE AGENDA ITEMS:

Election of the DCSD President and Secretary.

First reading of the Encroachment Ordinance Code.

Closed session to perform personnel evaluation of general counsel.

Presentation of a proposal for discussion of a digital DCSD handbook.

CALL OF NEXT MEETING/ADJOURNMENT:

President Urbelis called the next meeting for March 14, 2023. The meeting will be conducted in-person at the Diablo Country Club. There being no further business, the meeting was adjourned the at 10:32 p.m.

Diablo Community Services District by

Kathy Torru, General Manager

DCSD Meeting 2.14.23

Remarks for the Public Comments

Good evening. My name is Nicola Place and I live on Mt. Diablo Scenic Blvd.

I have spoken at many DCSD meetings since 1998. I am largely predictable: I almost always talk about the same topic: SAFETY. Tonight, I am once again talking about safety, on behalf of the residents of the upper portion of Mt. Diablo Scenic Blvd.

As you likely recall, I spoke at the January DCSD meeting, representing all of the residents of upper Mt. Diablo Scenic Blvd. At that time we requested that the DCSD use our fees to re-paint the double yellow lines on Upper Scenic. We asked that you respond to us in writing and that the work be completed by the end of February. We have not received a reply so we are now asking that this item be placed on the March DCSD Meeting Agenda.

We also note that substantial DCSD funds appear to have been expended for emergency creekside repairs, which sets an interesting precedent for doing work outside of the historical scope of DCSD. We hope you will see fit, in the name of safety, to consider other work outside the historical scope in order to make Upper Scenic safe as well. The striping on Scenic was badly damaged by the gravel and debris washing down and across the road during the storms and flooding. This means drivers are less able to discern their proper and safe position on the road.

We also and again note that we have contributed over \$67,000 to the DCSD and have yet to receive road maintenance services.

Safety should not be controversial. We hope you are taking steps to have this work scheduled and, if not, we will appreciate a transparent and open discussion of the matter at the March meeting.

Thank you,

Nicola Place and

Steve and Wendy Moore

Sketch and Marti Sketchley

Carol Mulcahey

Paul and Hannah Craddick

Carol Berendsen

Grace and Randy Su

Colleen and Winston Cervantes

Hsiu-Li Cheng

Jenny and Lloyd Lee

Peter and Mayra Hypnar

Nancy and Hal Seibert

From the January Public Comments:

DCSD Meeting 1.10.23 Remarks for the Public Comments section

Good evening. My name is Nicola Place and I live on Mt. Diablo Scenic Blvd.

Congratulations to the newly elected board members!

I have spoken at many DCSD meetings since 1998. I am pretty predictable: I almost always talk about the same topic: SAFETY. Tonight, I am once again talking about safety, on behalf of the residents of the upper portion of Mt. Diablo Scenic Blvd.

Since most of you are new to the board you are also likely new to the topic of the upper portion of Mt. Diablo Scenic Boulevard, what we call "Upper Scenic."

First a brief history:

- Since 2011, all of the properties on Upper Scenic have been part of the DCSD.
- We each pay the annual DCSD tax, currently \$745.39 per household.
- This means that since 2011, the DCSD has received tax revenue totaling \$67,686.96 - just from the residents of Upper Scenic alone.
- Unfortunately, none of that money has been used to improve the safety of Upper Scenic.

So what is the safety issue on Upper Scenic?

- Upper Scenic is narrow, winding, and has five blind turns. In other words, it's not safe. In fact, we often call it "The Danger Zone."
- Over the years there have been at least six bike-vehicle collisions resulting in serious injuries.
- In 2019 there was a fatality on Upper Scenic. Maayan Jones, husband, and father of three boys was tragically killed in 2019 while traveling thru the Danger Zone. (See photo.)

It is not an exaggeration to call upper Mt. Diablo Scenic "The Danger Zone."

- The purposes of the DCSD, per the formation documents and confirmed in your recent campaign platform, are safety and security.
- How can the DCSD help make Upper Scenic safer?
 - After the fatality in 2019, an anonymous group funded a pilot test of double yellow line road striping on Upper Scenic. Prior to this time there was no centerline striping of any kind.

- This striping has been phenomenally successful in making upper Scenic MUCH safer: Drivers and cyclists stay on their side of the road, drivers are much less likely to pass cyclists, dog-walkers, and hikers on the blind turns, and there have been no collisions - and no fatalities - since.
- But now that paint is fading. It's time for a fresh coat of paint.
- We would like the DCSD to fund the cost for a fresh coat of double yellow lines.
- We believe the cost would be under \$20,000 for the more durable "thermoplastic" paint, which is less than 30% of the \$67,000 we have paid in DCSD taxes since 2011.

We ask that you take this under consideration to be completed by the end of February.

We look forward to your written reply and assistance in making Upper Scenic safer.

I will forward a written copy of these remarks to the board and ask that they please be incorporated into the DCSD records.

Thank you,

Nicola Place and the residents of Upper Scenic
(Read the last names.)

Steve and Wendy Moore

Sketch and Marti Sketchley

Carol Mulcahey

Paul and Hannah Craddick

Grace and Randy Su

Colleen and Winston Cervantes

Hsiu-Li Cheng

Jenny and Lloyd Lee

Peter and Mayra Hypnar

Nancy and Hal Seibert



Maayan Jones and Family



Memorial Service on Scenic for Maayan Jones: His widow and sons.

From: Terri Davis **Subject:** DCSD agenda



Date: February 14, 2023 at 4:19 PM
To: generalmanager@diablocsd.org



Dear DCSD Board Members,

It's come to my attention that there has been a move to prioritize this board's time to changing the DCSD bylaws. Please don't invest your time on petty power struggles so that you can try and architect some petty coup. Rather, please focus on collaborating and building consensus on matters that are more important and material to the health and safety of our community. Our ordinances deserve your attention.

For the newest members, I suggest you serve and learn on the job before you try to lead the organization. Nothing will cause you to lose the support of this community faster than petty infighting. The election was messy and a black eye to the nature of this hamlet. Now that you're in the job, let's demonstrate a more civil and professional approach to leadership.

In you we trust, for now.

Terri Davis

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From: Dana Pingatore

Subject: Public Comment on Bylaw change

Date: February 14, 2023 at 2:40 PM

To: generalmanager@diablocsd.org



Dear DCSD Board Members -

I would like to register my opposition to a change in bylaws related to election of officers. Please focus your time and effort on the things that really require updates - like our ordinances. Thank you

Dana Pingatore

--

Tuesday, February 14, 2023

Public Comment, DCSD Board Meeting

Jeff Eorio, Diablo Resident

As this is Valentines day, I am unable to attend the meeting of the Board but would like my letter read into the record tonight and made a part of the minutes. Thank you.

About your discussion tonight of the bylaws as requested last meeting, it is imperative for the good of the Diablo community and for the governing of our special district that Kathy Urbelis remain as President of the Board. Kathy has successfully led this District for the past several years through two expensive lawsuits that cost the district hundreds of thousands of taxpayer dollars and resulted in absolutely no change in how our publicly maintained streets are used and by whom. She also helped guide the District through this past winter storm damage which is still ongoing. There is no current Board member with the knowledge, skill, understanding of public law who is up to the challenge of leading our special district for the next couple of years. She has earned her position and must be retained without delay. Any effort to try to change our leadership at this time will be met by very strong community opposition. I can assure you that residents are ready willing and able to come out to support Kathy as your continuing President.

Additionally, I would ask, as was asked at the last Board meeting, for the District to re-stripe Mt. Diablo Scenic Blvd. as a way to assure the residents of Mt. Diablo Scenic that they too are a part of our special district and that they are valued. It is an important public safety measure and it needs to be funded and hopefully agenized for the March meeting.

With regards to the GHAD proposal, we have several GHADs within the City of San Ramon while I was working there for 22 years and they were set up prior to any homes being built on San Ramon Creek or in the Dougherty Valley development. Here the proposal is to establish a taxing agency, a Geologic Hazard Abatement District for the purpose of responding to creek failures, landslides and the like. The problem here in Diablo as I see it, and I will be anxious to read the ENGEO report when it is completed, is that the majority of property owners in Diablo do not live on one of our creeks, and thus will be paying for the problems of property owners who live on creeks or adjacent to creeks. I would imagine that the annual tax of this proposed GHAD will be at least as much if not greater than our current fee to the District. I just want residents to be clear that this will be a significant additional fee above and beyond our current assessments. I support the Board moving forward with the analysis by ENGEO as I know and trust their firm, and again, I will be anxious to read their recommendations.

On another note, I requested at the last meeting that the members of the "safe and secure" slate tell me their source of where either I or Bart Hobden ever asked for a 4th vehicular entrance to Diablo. I will be asking this at every meeting until I get an answer as I know you all never heard it directly from me, from the meetings that you never attended or the minutes that you probably never read. So what was the source of your misinformation that you spread during the election cycle? Any number of Diablo residents would like to know your source?

Thank you. Jeff Eorio

From: Arlene Reed

Subject:

Date: February 11, 2023 at 6:30 PM

To: Kathy Torru generalmanager@diablocsd.org

AR

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To The Members of the DCSD Board,

I have read the draft minutes of the 1/10/23 DCSD meeting and was amazed that two of the new DCSD board members voted as they did regarding the election of officers and request to change the bylaws. Our president, Kathy Urbelis, deserves our immense gratitude for the work she has done for us over the years - for her skills, knowledge of the laws, guidance through the two expensive lawsuits, involvement during the crises of the January rains, and her overall dedication to the care of Diablo, the community we all love and treasure. We are so lucky to have her!! It is very confusing to me why the two brand new board members, Christine and Jerry, wanted to change the board's bylaws and procedures regarding elections that have been followed successfully for years. Is there an ulterior reason?

Arlene Reed

From: Kay Spicer


Subject: Thank you

Date: February 11, 2023 at 8:00 PM

To: DCSD General Manager generalmanager@diablocd.org

KS

I have never seen a volunteer, non-paid elected official work so hard, tirelessly, and effectively as I you did during the atmospheric River. I humbly thank you. Know that you and your board have my continuous gratitude and support. Kay Spicer
Sent from my iPad

From: Julie Nejedly 
Subject: Support for Kathy Urbelis at Tuesday's District meeting
Date: February 12, 2023 at 2:33 PM
To: DCSD General Manager generalmanager@diablocsd.org,
Cc:



To: Diablo Community Services District Board
From: Julie Nejedly, Diablo
Re: February 14, 2023 Agenda Item - Discussion of an Amendment to DCSD Bylaw Article V Section 1

I do not support an amendment to the DCSD Bylaw Article V, Section 1.

It is concerning that a recently elected Board Member whose campaign was fraught with misrepresentation and deceit has proposed amending the Board Bylaws as their first order of action. It is imperative for the good of the Diablo community and for the governing of our special district that Kathy Urbelis remain as President of the Board. Kathy has successfully led this District for the past several years through many challenging situations including two lawsuits. Her historical knowledge of Diablo, skill in leading the Board, understanding of public law, and ability to guide the District and the community through the recent massive winter storm damage and repair is exemplary. There is no current Board member with the background or qualifications to lead our special district for the near term. Kathy has earned her position through countless years of community involvement and leadership and must be retained without delay. Any effort to try to change the DCSD leadership at this time will be met by very strong community opposition. I recommend and support Kathy Urbelis as your continuing President.

From: David Watson
Subject: RE: Support for Kathy Urbelis at Tuesday's District meeting
Date: February 12, 2023 at 3:04 PM
To:
Cc:




To: DCSD Board
From: David Watson, Diablo CA 94528

I was in the process of writing my own statement regarding the upcoming discussion of amendment to the DCSD Bylaw Article V Section 1 when I read Julie's attached statement. Since it perfectly captures my view on this subject I am sending this along as my endorsement of her statement and the strong opposition the board will face from members of the community such as myself in any attempt to modify the bylaws and/or unseat Kathy Urbelis as president. She understands the laws governing special districts such as ours; knows the community history which is invaluable in steering the direction of our district; and possesses the demonstrated experience in her role to make excellent and prudent decisions for our community. Kathy Urbelis needs to remain our DCSD president to continue the good governance and prudent direction we have enjoyed.

Regards,

Dave



From: Garth Hobden 
Subject: Amendment of DCSD Bylaws - Article V, Section 1
Date: February 12, 2023 at 5:29 PM
To: DCSD General Manager generalmanager@diablocsd.org
Cc:



TO: Diablo Community Services District Board (DCSD)
FROM: Garth Hobden - Diablo, Ca 94528
SUBJ: Amendment of DCSD Bylaws - Article V, Section 1

I strongly oppose any amendment to the referenced DCSD bylaws at the upcoming Board Meeting on February 14, 2023.

It is very concerning to me that a couple of newly elected Board Members that have been in their respective Board positions, less than four months, have identified that a change in these Bylaws is necessary and appropriate under the circumstances.

Unfortunately, this is not surprising since there is very clearly an agenda that these two newly elected candidates are following. The tactics that are being used to propose amending Article V, Section 1 are coming from the very same “deceitful playbook” used in their respective campaign. Is the underlying goal for one of them to replace Kathy Urbelis, or maybe to seek another candidate for the position to streamline the passage of some of their future objectives? There is simply no basis for this other than a desperate attempt for power and control.

Kathy Urbelis, our Board President has very successfully led our District over the last three years through some very challenging times, which included two expensive lawsuits and most recently severe storm activity that required her immediate and effective action to ensure the safety of all of the residents of Diablo.

We are so fortunate to have Kathy leading our Board. She has demonstrated a sincere commitment to use her comprehensive skills and legal experience to achieve the very best outcome for our treasured community.

Kathy Urbelis needs to remain our DCSD President, she has earned our trust and demonstrated through her leadership and good governance over the last several years that she serves the best interests of all of the residents of our Diablo community.

Good, competent community leaders have strong community support, Kathy is no exception, any attempt to disturb her leadership would invoke strong community opposition.

From: Sheila Langon

Subject: Re: DCSD 2/14/23 Agenda Item

Date: February 13, 2023 at 1:41 PM

To: DCSD General Manager generalmanager@diablocsd.org

SL

Please read my letter below as part of the public comments. Thank you.

Sent from my iPhone

On Feb 13, 2023, at 11:38 AM, Sheila Langon <wrote:

Dear DCSD Board -

Please read this letter aloud so it may be included in the minutes. As a past DCSD Roads Commissioner, I continue to follow what the DCSD is actively working on. I applaud the job the volunteer board members have done in the past in keeping our community safe and dealing with our roads, bridges and culverts.

The focus of the current board should be the experienced members teaching the new members all the details of what needs to be done today and going forward regarding our recent culvert problems, road edges deteriorating along our creeks, bridge cracks and potholes, road and bridge signs that neighbors have taken upon themselves to add or remove, etc. This learning curve takes time, as I know from firsthand experience as a board member.

In reading the DCSD draft minutes from 1/10/23, it looks like a new board member wants to jump in and change our long-standing, well working Bylaw Article V Section 1. I don't remember our Bylaws ever being changed in the history of Diablo and DCSD regarding removing or changing a Presidents position. The President job, should be earned from experience and successful situation outcomes. Kathy Urbelis has done an outstanding job as DCSD President since Ray Brandt resigned. She did a phenomenal job as Vice President prior to that. She has lived in Diablo longer than my 28 years and volunteered on so many committees, I wouldn't be surprised if she is named Citizen Of The Year soon. Kathy Urbelis has the respect of our neighbors, and most importantly, the respect of our County leaders.

I vehemently disagree with any new board members suggesting changes in our Bylaws without actually learning the DCSD job, contributing hands on to the DCSD job, and serving their time as a DCSD commissioner to prove they can work together on the board in the best interest of our community as a whole.

I also would like to request the DCSD board going back to in-person meetings. Most companies have their employees coming back into the office, so DCSD should adjust to current times. Diablo is a close nit community, and we deserve to see and hear our representatives in person.

Thank you - Sheila Langon
Diablo

From: Ray Brant
Subject: Ray's comments
Date: February 15, 2023 at 7:54 AM
To: DCSD General Manager generalmanager@diablocsd.org



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Good evening I am Ray Brant DCSD board member 2010 to 2020 I was elected the DCSD President from 2015 to 2020.

I would like to explain how DCSD elections were conducted in previous years.

The following information is taken from DCSD minutes:

January 2015 Ray Brant was elected president
other officers were filled also

January 2017 Ray Brant was elected president
other officers were filled

During 2017 Kathy T., Kathy U. and Dick Breitwieser were asked to create DCSD bi-laws.

Their bi-laws were approved at the November 2017 DCSD meeting.

When I voted to create these bi laws I understood that they required voting for board officers every 2 years per past practice.

This is the first year that anyone has claimed that the bi-laws grant lifetime board officers.

The DCSD Board should schedule an election for its board officers.