

**DIABLO COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS  
REGULAR MEETING AGENDA<sup>1</sup>  
DIABLO COUNTRY CLUB RED HORSE TAVERN TOO  
TUESDAY, JUNE 13, 2023, 7:30 P.M.**

**CALL TO ORDER:**

**President: Kathy Urbelis**

**ROLL CALL:**

**Secretary: Christine Chartier**

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

**PUBLIC COMMENTS:** *Public comments will be taken on any subject including items on this agenda and 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.*

**1. BOARD/STAFF COMMUNICATION AND ACTIONS**

**ADMINISTRATIVE:** Director Urbelis

- a) Director Lorenz and GM Torru to present for approval Resolution No. 2023-05, adoption of the 2023-24 Budget.
- b) Introduce and waive first reading of Ordinance No. 2023-01, Repealing and Replacing Ordinance No. 2002-01 and Ordinance Code Chapter 6-6 – Encroachments.
- c) Director Slavonia to propose an earlier start time to the monthly Regular Meeting.
- d) Director Urbelis to present process for identifying legal counsel replacement.
- e) GM to present for approval the GSRMA insurance premium 2023-24 invoice in the amount of \$40,239.

**ROADS:** Director Cox & General Manager

- a) GM Torru to update Board on FEMA application.

**SECURITY:** Director Slavonia

- a) Provide security report and update on sheriff deputy replacement.

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<sup>1</sup> Agenda attachments are available on the DCSD's website ([www.diablocsd.org](http://www.diablocsd.org)) home page under Agenda.

2. **CONSENT CALENDAR**

- a) Approve the minutes of the May 9, 2023, Regular Meeting.
- b) Approve the minutes of the May 30, 2023, Special Meeting.

3. **REPORTS**

<b>CONTRA COSTA COUNTY:</b>	Cameron Collins
<b>DIABLO PROPERTY OWNERS ASSOC:</b>	Leslie Keane
<b>DIABLO COUNTRY CLUB:</b>	Hank Salvo

4. **DIRECTOR COMMENTS**

5. **FUTURE AGENDA ITEM ANNOUNCEMENT**

6. **CALL OF NEXT MEETING & ADJOURNMENT**

The next DCSD Regular Board meeting is scheduled for August 8, 2023, at 7:30 p.m. at Diablo Country Club.

Diablo Community Services District by  
Kathy Torru, General Manager

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>.

**RESOLUTION NO. 2023-05**

**RESOLUTION OF THE DIABLO COMMUNITY SERVICES DISTRICT APPROVING  
THE FISCAL YEAR 2023-24 BUDGET**

**WHEREAS**, The Diablo Community Services District (District) on May 31, 2023 caused to be published in the News Register of Contra Costa County, a newspaper of general circulation, a notice that the General Manager had prepared a proposed final budget for fiscal year 2023-2024, which was available for inspection, and that a public meeting would be held on June 13, 2023 at 7:30 p.m. at which time any person could appear and be heard regarding any item in the budget or regarding the addition of any other items, and;

**WHEREAS**, this District did hold a public meeting on June 13, 2023 at 7:30 p.m. at which time any person could appear and be heard regarding any item in the fiscal year 2023-2024 budget or regarding the addition of any other items;

**NOW THEREFORE BE IT RESOLVED**, that the District Board of Directors adopts the instrument attached as its final budget for fiscal year 2023-2024.

**BE IT FURTHER RESOLVED**, that a copy of the final budget of the District be forwarded to the Auditor of Contra Costa County.

**Effective Date.** This Resolution shall take effect on and after its adoption.

\* \* \* \* \*

THE FOREGOING RESOLUTION WAS ADOPTED at a regular meeting of the Board of Directors of the Diablo Community Services District on the 13<sup>th</sup> day of June 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Christine Chartier, Secretary

Attest:

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Kathy Torru, General Manager

Diablo Community Services District  
FY 2023-24 Budget

FY-July thru June	Actual		2024 Budget					Forecast			
	2021-22	2022-23*	Q1	Q2	Q3	Q4	YTD	2025	2026	2027	2028
<b>Beginning Cash</b>	646,522	507,532	481,652	263,539	574,761	318,364	481,652	575,360	589,194	477,376	612,869
<b>Revenue</b>											
Ad valorem & special tax	840,392	869,326	-	493,218	-	403,542	896,760	923,663	951,373	979,914	1,009,312
Other	8,144	65	-	-	-	-	-	-	-	-	-
<b>Total Income</b>	<b>848,536</b>	<b>869,391</b>	<b>-</b>	<b>493,218</b>	<b>-</b>	<b>403,542</b>	<b>896,760</b>	<b>923,663</b>	<b>951,373</b>	<b>979,914</b>	<b>1,009,312</b>
<b>Expenses</b>											
Security	349,312	327,146	119,046	96,246	96,246	101,446	412,985	421,864	447,176	474,007	502,447
Roads/bridges/culverts	530,708	357,815	40,000	58,200	129,800	30,000	258,000	368,000	493,000	243,000	43,000
Professional	68,384	171,670	16,302	27,550	14,850	14,900	73,602	73,250	76,300	80,100	83,212
Insurance	41,015	40,389	41,015	-	-	-	41,015	41,015	41,015	41,015	41,015
Administrative	2,352	2,552	1,750	-	15,500	200	17,450	5,700	5,700	6,300	6,300
<b>Total Expenses</b>	<b>991,771</b>	<b>899,572</b>	<b>218,113</b>	<b>181,996</b>	<b>256,396</b>	<b>146,546</b>	<b>803,052</b>	<b>909,829</b>	<b>1,063,191</b>	<b>844,422</b>	<b>675,974</b>
Net Income	(143,235)	(30,181)	(218,113)	311,222	(256,396)	256,996	93,708	13,834	(111,818)	135,493	333,338
Incr/(decr) in AP/prepays	4,245	4,301									
<b>Ending Cash</b>	<b>507,532</b>	<b>481,652</b>	<b>263,539</b>	<b>574,761</b>	<b>318,364</b>	<b>575,360</b>	<b>575,360</b>	<b>589,194</b>	<b>477,376</b>	<b>612,869</b>	<b>946,207</b>
<b>Other Financial Data</b>											
Reserves (bridge/culvert) (Unfunded)	667,600	760,928					857,287	953,705	1,051,216	1,149,853	1,249,648

\* Actual thru Q3 plus Q4 Forecast

## STAFF REPORT

**DATE:** June 13, 2023  
**TO:** DCSD Board Members  
**RE:** Update to District Encroachment Ordinance

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### BACKGROUND/SUMMARY

Directors Lorenz and Cox requested at the January meeting that the Board discuss the District's options for responding to emergency tree and creek-related incidents affecting DCSD-Maintained Streets.

DCSD-Maintained Streets are narrow, there are no sidewalks adjacent to the streets, and the streets are used by pedestrians, children, cyclists, golf carts and other mechanical and personal modes of transportation and play. DCSD-Maintained Streets are the only access for emergency vehicles to service property and persons within Diablo so any "encroachment" on or damage to a DCSD-Maintained Street could result in inconvenience or dangerous conditions to Diablo residents, including but not limited to increased response times for emergency vehicles.

For this reason, in 2002, the District adopted Ordinance 2002-01 (the "Encroachment Ordinance"; attached hereto as Exhibit A), which added Chapter 6-6 to the District's Ordinance Code, the rest of which had been adopted in 1993. The Encroachment Ordinance broadly defines an "encroachment" as the existence of almost any unauthorized activity or item in the DCSD-Maintained Street and generally (1) prohibits any person from allowing an encroachment to exist on a street, and (2) requires payment to the District for the cost of removal of the encroachment if the District must remove it.

The Encroachment Ordinance suffers from internal inconsistencies, inconsistencies with the rest of the 1993 Ordinance Code, confusing definitions, and several odd provisions. For example, there are separate definitions of "road" and "right of way" which are arguably inconsistent with the rest of the Code. The Ordinance precludes a "person who resides on property in Diablo" from creating an encroachment, but then also separately defines a "person" as potentially a public agency or corporation. There is another provision that suggests that the District can "charge back" a tenant or owner for costs it spends to remove an encroachment, but the law does not allow the District to charge tenants. In short, it needs an overhaul.

For this reason, the District has been considering adoption of updated encroachment provisions as part of its Ordinance Code update. Generally, the proposed update to the encroachment ordinance serves the same purposes as the existing one: it prohibits encroachments and requires payment to the District for the cost of removal. However, the proposed version clearly defines what an encroachment is (any obstruction that prevents full or partial access to a DCSD-Maintained Street including but not limited to structures and any kind of vegetation), who can violate the ordinance (property owners), and the process by which the District can remove encroachments and charge property owners for specific, associated costs.

At its February 14, 2023, meeting, the Board reviewed the existing and proposed encroachment ordinances and provided direction to staff to return with the proposed encroachment ordinance, which allows the District to remove encroachments if individual property owners fail to do so and indicates that those property owners are responsible for the District's costs to remove.

At the April 11, 2023, meeting, the Board reviewed the proposed encroachment ordinance and unanimously approved the document with instructions for the general manager to present the ordinance at a future Regular Board Meeting for reading and adoption.

At the May 9, 2023, meeting the Board took public comment and decided to bring back the ordinance for a new first reading to make minor clarifications.

Please note that once the District eventually adopts a comprehensive update to its Ordinance Code, the proposed encroachment ordinance would remain part of the updated Code (although it may require minor revisions at that time to confirm all definitions align, etc.)

## **RECOMMENDATION**

Introduce and waive first reading of Ordinance 2023-01, Repealing and Replacing Ordinance No. 2002-01 and chapter 6-6.

**ORDINANCE NO. 2023-01**

**AN ORDINANCE OF THE DIABLO COMMUNITY SERVICES DISTRICT REPEALING AND REPLACING ORDINANCE NO. 2002-1 AND CHAPTER 6-6**

**WHEREAS**, the Diablo Community Services District (“District”) adopted an encroachment ordinance in 2001 which is now over 22 years old; and

**WHEREAS**, The streets maintained by the District are narrow, there are no sidewalks adjacent to the streets, and the streets are used by pedestrians, children, cyclists, golf carts and other mechanical and personal modes of transportation and play, including emergency vehicles, so it is imperative that any “encroachment” on or damage to a DCSD-Maintained Street is cleared away quickly because it could result in inconvenience or dangerous conditions to Diablo residents, including but not limited to increased response times for emergency vehicles; and

**WHEREAS**, the District desires to update the encroachment provisions in its ordinance code in order to clarify certain inconsistencies and the process for the District’s handling of encroachments; and

**WHEREAS**, the District held a study session at its February 14, 2023 meeting to obtain input from Directors and the public on proposed updates to the encroachment ordinance; and

**WHEREAS**, repealing and replacing Chapter 6-6 is not a “project” under the California Environmental Quality Act (“CEQA”) Guidelines section 15378(b)(2) and (b)(5) because it is an administrative and organizational activity that will not result in direct or indirect environmental impacts, and even if it is a “project,” it can be seen with certainty that it will not result in an impact to the environment pursuant to CEQA Guidelines section 15061(b)(3) because it does not involve or authorize any physical construction or other action that would impact the environment.

**NOW, THEREFORE, THE DISTRICT DOES HEREBY ORDAIN AS FOLLOWS:**

Section 1: The above recitals are true and correct and are incorporated herein.

SECTION 2: Ordinance No. 2023-01 attached hereto as Exhibit A is hereby adopted, and Ordinance No. 2001-01 and Chapter 6-6 of the Ordinance Code of the Diablo Community Services District are hereby repealed. Exhibit A shall replace the existing Chapter 6-6 and shall be codified in the District’s Ordinance Code. No other sections of this Ordinance No. 2023-01 shall be codified.

SECTION 3: This Ordinance No. 2023-01 shall take effect and be in force 30 days from the date of its passage; and, before the expiration of 15 days after its passage, it or a summary of it shall be published in a newspaper of general circulation in Contra Costa County.

Passed, approved, and adopted by the Board of Directors of the Diablo Community Services District on this June 13, 2023 by the following vote:

AYES:

NOES:

ABSTAIN:

ATTEST:

\_\_\_\_\_  
Kathy Urbelis, Board President

## EXHIBIT A

### Chapter 6-6 ENCROACHMENT ORDINANCE

#### 6-6-1 Findings and Purpose.

- a. That DCSD-Maintained Streets are narrow with no adjacent sidewalks, and are used by pedestrians, children, and cyclists and other mechanical and personal modes of transportation and play.
- b. DCSD-Maintained Streets are the only access for emergency vehicles to service property and persons within Diablo.
- c. Encroachments onto DCSD-Maintained Streets may result in dangerous conditions or severe inconvenience to property owners and residents, including but not limited to increased response times for emergency vehicles or the failure of a DCSD-Maintained Street.
- d. It is the responsibility of a property owner to remove any encroachment onto a DCSD-Maintained Street.
- e. Encroachments that pose a safety threat to persons or the integrity of DCSD-Maintained Streets or prevents emergency vehicle access will be immediately removed by the DCSD at the property owner's expense.
- f. DCSD does not have a Public Works Department and therefore it is necessary for DCSD to contract with independent contractors to remove encroachments should a property owner fail to do so, the cost of which shall be borne by the property owner.

#### 6-6-2 Definitions.

- a. **Encroachment** is an obstruction that prevents full or partial access to a DCSD-Maintained Street or threatens the integrity of the DCSD-Maintained Street. Encroachments include, but are not limited to, any structures such as signs, fences, walls, or guardrails; or any vegetation, such as trees, shrubs, or other growing materials; or landscape materials such as rocks, irrigation materials, or bark; or water or mud. Encroachments also include any fences, walls, and similar structures within 3-feet of the private road. Encroachments do not include any permanent or fixed obstructions (e.g., structures, walls, fences) that exist at the time this section is adopted on August 8, 2023.
- b. **DCSD-Maintained Streets** means those streets and bridges located within Diablo that are maintained and secured by DCSD pursuant to the DCSD 1969 Formation Resolution.

#### 6-6-3 Violations and Removal of Encroachment.

- a. No property owner shall permit an encroachment to lie on, damage or impede a DCSD-Maintained Street. If a property owner's property contains an encroachment or if a property owner is responsible for placement, accidental or otherwise, of an



encroachment onto a DCSD-Maintained Street, the property owner shall remove the encroachment upon notification by any member of the Board of Directors, General Manager, or Sheriff within 15 days. The property owner is responsible for encroachment removal costs.

- b. If an encroachment poses a safety threat to persons or DCSD-Maintained Streets or prevents timely emergency vehicle access, as determined by the Board of Directors, General Manager, or Sheriff, the DCSD will immediately contact a third-party contractor to remove the encroachment and mitigate the threat to the DCSD-Maintained Street. The property owner is responsible for any and all costs associated with the encroachment removal and mitigation, which shall be paid to the District within 30 days of its removal of the encroachment.

**DIABLO COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS MEETING  
MINUTES  
DIABLO COUNTRY CLUB PARKING LOT  
MAY 9, 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 spoke about upper Mt Diablo Scenic Blvd safety and asked the DCSD to fund the restriping of the road.

Alan Bonny asked that the DCSD consider a working session to discuss the proposed County 3-foot Setback Ordinance.

Ray Brant, see attached correspondence regarding the proposed County 3-foot Setback Ordinance.

Kay Batts expressed concern about the state of Kay's Trail and asked the Board to inspect Kay's Trail for storm damage and prepare a maintenance plan.

Jeff Eorio spoke in support of the proposed County 3-foot set back ordinance; asked the Board to consider restriping Mount Diablo Scenic Blvd; to assist the Mount Diablo Scenic property owners secure a road maintenance agreement with the Mt Diablo State Park; and to make records retention and the digitization of the District's records a priority.

Maryann Cella, see attached correspondence regarding multiple topics.

Mugs Freeman asked that the Board members work together on these important issues and expressed support for the comments made by Alan Bonny, Ray Brant and Maryann Cella.

Dee Geisler expressed concern about the County creating a Diablo overlay.

David Mackesey (read by Tony Geisler) thanked the Board for its emergency response and management of the 2022-23 winter storm damage and asked that adoption of the encroachment ordinance be postponed to a later date.

Tony Geisler expressed concern about the County proposed 3-foot Setback Ordinance.

**BOARD/STAFF COMMUNICATION AND ACTIONS:**

**ADMINISTRATIVE:**

Director Lorenz presented the DCSD 2023-24 Budget for discussion. Director Chartier expressed concern about the \$400k earmarked for the permanent fix of the creek bank on Alameda Diablo and

the need for the Directors to discuss where the District's financial responsibility ends, and the property owner's responsibility begins. The directors expressed concern about the financial impact of the 2022-23 winter storm on the District's cash reserves. Director Lorenz and General Manager Torru confirmed that the budget does not authorize expenditures, and that any future expenditures, including the creek bank fix, would return to the Board for a decision.

Director Lorenz asked that any additional questions about the budget be directed to him before the next meeting so that a final budget can be presented to the Board for adoption at the June 13, 2023 Regular Meeting.

General manager Torru presented the DCSD Q3 financial report, noting that the 2022-23 winter storm damage had a significant impact on the District's financial position. A copy of the report is available on the District's website.

Director Lorenz presented Resolution 2023-04, authorizing the Special Tax rate for 2023-24 and directing the County to collect the tax on behalf of the District. On motion of Director Lorenz, second by Director Slavonia Resolution 2023-04 was adopted. The motion passed 5-0. See exhibit A.

Director Cox introduced for a second reading Ordinance No. 2023-01, Repealing and Replacing Ordinance No. 2002-01 and Ordinance Chapter 6-6 – Encroachments, and requested GM Torru read aloud the staff report and ordinance. GM Torru read Ordinance No. 2023-01 and included a proposed clarification to confirm that existing structures would be allowed to remain. A discussion amongst the Directors regarding the appropriate time to adopt the ordinance followed the reading with directors expressing that it may be prudent to wait until the County adopts its proposed overlay/rezoning related to encroachments in Diablo and that the proposed ordinance did not contain a "grandfather" clause. General counsel Crowl explained that due process afforded by the state and federal constitutions requires a newly adopted ordinance to apply going forward; it does not apply to past actions. So, permanent structures like walls and fences that exist today would not be impacted by the new encroachment ordinance. The Board decided to table the item to allow for edits and to bring the ordinance back to the Board next month for a new first reading after Director Cox makes additional edits and clarifications related to the reference to the proposed County 3-foot Setback Ordinance.

[Director Slavonia exited the meeting at 9:02 PM]

#### **ROADS:**

Director Cox and General Manager Torru requested authorization from the Board to spend up to \$10k to obtain bid proposals for the permanent repair of the compromised creek banks at 2121 and 2145 Alameda Diablo. On motion of Director Lorenz, second by Director Urbelis, the Board authorized the expenditure. The motion passed 4-0. Director Slavonia was not present for the vote.

General manager Torru reported that the DCSD continues to work with FEMA to qualify for federal and/or state reimbursements for storm damage expenses.

[Director Slavonia returned to the meeting at 9:09 PM]

#### **SECURITY:**

Deputy Buergi stated that there was one crime incident last month, a contractor's tools were taken from his truck although it was not confirmed that the crime occurred in Diablo. Deputy Buergi confirmed that he will be retiring in June and that no replacement has been identified.

#### **CONSENT CALENDAR:**

On motion of Director Lorenz, second by Director Urbelis, the Directors approved the consent calendar. The motion passed 5-0.

**REPORTS:**

**CONTRA COSTA COUNTY:** Cameron Collins, Supervisor Candace Andersen liaison, had nothing to report.

**DIABLO PROPERTY OWNERS' REPORT:** None

**DIABLO COUNTRY CLUB:** Hank Salvo, Club liaison, reported that the clubhouse renovation is moving forward slowly.

**DIRECTOR COMMENTS:**

President Urbelis reported that the District had received the County's proposal for the 3-foot Setback Ordinance and that Directors Cox and Lorenz and general manager Torru were reviewing the language. The County proposal and Directors' Cox and Lorenz recommendations will be presented at the DMAC June 13, 2023 Regular Meeting. The County Planning Commission will review the 3-foot Setback Ordinance at their July 12, 2023 meeting.

Director Chartier expressed concern that a letter sent by the general manager to the County in February 2023 had incorrect Director's names listed at the bottom of the letterhead and that the current Board was unaware of the letter. General manager Torru explained that the County correspondence was authorized by DMAC at its September 13, 2022, meeting. Director Cox confirmed that the general manager's correspondence was authorized by the Board at the September 2022 meeting. Cameron Collins, Supervisor Candace Andersen liaison, also confirmed that the correspondence was the DMAC correspondence from September 2022, and that she had made the request that General Manager Torru re-send that correspondence addressed to a different department within the County in February 2023.

**FUTURE AGENDA ITEMS:**

Adopt the 2023-24 Budget Draft.

**CALL OF NEXT MEETING/ADJOURNMENT:**

President Urbelis called the next meeting for June 13, 2023. The meeting will be conducted in-person at the Diablo Country Club. There being no further business, the meeting was adjourned at 9:30 p.m.

Diablo Community Services District by

Kathy Torru, General Manager

**RESOLUTION NO. 2023-04**

**RESOLUTION OF THE DIABLO COMMUNITY SERVICES DISTRICT  
CONFIRMING RESULTS OF MEASURE B SPECIAL TAX ELECTION AND  
DIRECTING COUNTY AUDITOR TO LEVY VOTER-APPROVED TAX**

**WHEREAS**, at an election held on March 6, 2018, the Diablo Community Services District (“District”) was successful in obtaining more than two-thirds voter approval to levy a qualified special tax known as Measure B (the “Tax”), as evidenced by the letter from the Contra Costa County Clerk dated March 14, 2018 containing the Certificate of Election Results; and

**WHEREAS**, the Tax set the initial rates for Improved Parcels, Unimproved Parcels, and the Diablo Country Club at \$662.26, \$128.06, and \$23,444.68, respectively; and

**WHEREAS**, the Tax allows for an annual inflation adjustment, and the District has calculated the rates for Fiscal Year 2023-2024 to be \$767.74, \$148.46, and \$27,178.82 for Improved Parcels, Unimproved Parcels, and the Diablo Country Club, respectively; and

**WHEREAS**, the District desires at this time to request that the Contra Costa County Auditor enter the Tax on the tax roll for collection and distribution by the Contra Costa County Tax Collector for Fiscal Year 2023-24;

**NOW, THEREFORE, BE IT RESOLVED** as follows:

**Section 1.** **Recitals.** The foregoing recitals are true and correct.

**Section 2.** **Direction to County Auditor to Levy and Collect Tax for Fiscal Year 2023-24.** It is hereby certified that the proceedings in connection with the March 6, 2018 Tax election have been accomplished in accordance with law. As such, the Contra Costa County Auditor is directed to include the Tax on the tax rolls for Fiscal Year 2023-24 as follows: **\$767.74** for Improved Parcels, **\$148.46** for Unimproved Parcels, and **\$27,178.82** for the Diablo Country Club.

**Section 3.** **Not Special Benefit Assessment; No New Taxing Area.** The Tax is a special tax approved by more than two-thirds of the voters of the District voting on the measure, as authorized by California Constitution Article XIII A and 50075. The procedures applicable to special benefit assessments, fees and charges set forth in California Constitution Article XIII D do not apply to the Tax. In addition, the Tax shall be levied within the boundaries of the existing District. No new taxing area will be formed for purposes of the levy of the Tax.

**Section 4.** **Actions to Facilitate Levy of Tax.** The President of the Board of Directors is hereby authorized to take, for each fiscal year following 2023-2024, any such further actions as may be required to facilitate the successful levy and collection of the Tax in the District including, but not limited to, each year providing the County Auditor with a list of parcels upon which the Tax shall be levied, and to respond to any further requests of the County Auditor with respect to such Tax.

**Section 5.** **Collection.** The Tax shall be collected in the same manner as ordinary ad valorem taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in case of delinquency as is provided for ad valorem taxes, and the County

Auditory is hereby authorized to deduct reasonable administrative costs incurred in collecting any such special tax.

**Section 6.**    **Effective Date.** This Resolution shall take effect on and after its adoption.

\* \* \* \* \*

The foregoing Resolution was adopted by the Board of Directors of the Diablo Community Services District on May 9, 2023.

Adopted by the following votes:

AYES: Urbelis, Cox, Lorenz, Salvonia, Chartier

NOES:

ABSENT:

ABSTAIN:

Attest:

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Kathy Urbelis, President of the Board

*Katharine Torru*

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Kathy Torru, General Manager

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. However, I decided to take a slightly different approach tonight and so I've written a short poem to share with you. Without further ado, please enjoy!

There is a wonderful Diablo road called Scenic

Which is so narrow it's ischemic!

It's been unsafe for years,

We've shed many tears,

But we hope it will someday be idyllic!

It's a magical place to call home,

Hosting many people who roam!

On foot and by bike

Most of them we like!

But we still call it The Danger Zone.

In two thousand nineteen,

On an afternoon quite frightening,

Poor Maayan Jones

Collided with a driver unknown,

Resulting in a fatal death scream.

We've begged and we've pleaded,  
We've said what is needed,  
We hope you'll soon find,  
The right state of mind  
To help the faded striping get treated.

I hate to sound like I'm keeping score,  
But as I've said many a time before:  
We've **PAID** our DCSD dues!  
So we're singing the blues  
Because we don't get the services we paid for.

~

On behalf of the residents of upper Scenic, also known as The Danger Zone,  
Thank you and we hope to hear from you soon!

Nicola Place and

Steve and Wendy Moore  
Sketch and Marti Sketchley  
Paul and Hannah Craddick  
Brian Moore  
Emily Kevorkian  
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  
Leslie Forman  
Laurie Bain  
Gun Johnston



Please enter the following into the meeting minutes.  
I will email the secretary copies of the following.

I sent the following email to the Board and General Manager.  
I did not get the courtesy of a response as to why my request was not granted.

As past DCSD/DMAC president and a 28 year resident I am troubled by the your actions. This Board is elected to serve the residents of Diablo we are not here to serve you.

**From:** Ray Brant <[r\\_abrant@sbcglobal.net](mailto:r_abrant@sbcglobal.net)>

**Subject:** DCSD/DMAC May 9th, 2023 Agenda Item regarding County's proposed setback ordinance

**Date:** May 3, 2023 at 2:57:40 PM PDT

Dear Board and General Manager,

I am requesting that the below proposed Ordinance be placed on the May 9th agenda for both the DCSD and DMAC.

I understand that The County's proposed Ordinance to establish a three-foot setback for certain Diablo properties is different from the one recommended to the County for approval by the previous DMAC Board in September 2022. It is necessary that this rewrite be presented and discussed by the present Board DCSD-DMAC and be made PUBLIC.

Thank you,  
Ray Brant

Tonight I want an ironclad guarantee that the County's setback Ordinances for Diablo be on the June meeting agendas for a joint DCSD/DMAC meeting.

Thank you,  
Ray Brant

Dear Supervisor Andersen:

In early April, members of the Diablo community and at least three of the five Directors of the Diablo CSD and the Diablo MAC were surprised to learn that the County had tentatively placed on the Planning Commission's May 10th agenda a County Setback Ordinance for Diablo and a related County Overlay District Ordinance for Diablo (the "Ordinances").

One of the blindsided Directors asked the DCSD President to place the Ordinances on the DCSD agenda for its regular April meeting. Her request was rejected.

Since then, we have learned through a Public Records Act request to the County that unbeknownst to most DCSD/DMAC Directors, the DCSD General Manager has been working since January 2023 with County officials and staff to write the Ordinances and develop a plan to obtain support within the Diablo community and its government for the Ordinances. A memorandum summarizing your January 30, 2023 meeting with County staff (copied below) stated that the "next steps" prior to passage of the Ordinances would include the General Manager implementing an educational outreach plan to the Diablo community and the General Manager "taking this [presumably the Ordinances and the outreach plan] to her Board".

In the last two weeks, more than one DCSD Director and several of the signers of this letter asked the DCSD President to place the Ordinances on the May 9th DCSD and/or DMAC regular meeting agendas. The President responded by posting the DCSD agenda without the Ordinances item and cancelling the DMAC meeting. Meanwhile, County Planner Stan Muraoka (responding to a request from a concerned Diablo resident) tentatively rescheduled the Planning Commission hearing on the Ordinances for July.


In that your January 30th twin directives of outreach to the Diablo community and Board approval have not occurred and there is only one regular meeting of the DCSD and the DMAC prior to July, **we respectfully request that you ask County planner Stan Muraoka to delay indefinitely the Planning Commission's and the Board of Supervisors' consideration of the Ordinances until such time as you have received a copy of DCSD and DMAC 2023 resolutions including the following:**

1. The DCSD and DMAC Boards' recommendations that the County Board of Supervisors approve the Ordinances (with the Boards' resolutions to include the exact language of the Ordinances as they are to be placed on the Planning Commission's agenda).
2. The Boards' assurances that the Diablo community has received education about the effect of the Ordinances and an opportunity to comment and object.

Please advise us whether you will implement our requests at your earliest convenience. Thank you for your attention to this important matter. We appreciate your service to our residents.

Respectfully,

Ray Brant, immediate past DCSD President (925 381 0172)  
Maryann Cella  
Dolores Geisler  
Tony Geisler  
Christopher Harney  
David Mackesey  
Jeff Mini

**From:** Maryann Cella maryann.cella@gmail.com   
**Subject:** Comments for the May 9, 2023 DCSD Board meeting  
**Date:** May 9, 2023 at 5:44 PM  
**To:**



**Cc:** DCSD General Manager generalmanager@diablocsd.org

External (maryann.cella@gmail.com)

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**PLEASE ENTER THESE COMMENTS INTO THE RECORD FOR THE ABOVE MEETING:**

Dear DCSD/DMAC Directors:

I have comments on several different matters tonight:

**1. PLEASE TABLE THE REPEAL AND REPLACE ENCROACHMENT ORDINANCE.**

As I did in my letter last month, I recommend tabling the adoption tonight of a "Repeal and Replace" ordinance regarding encroachments. Further study and community engagement is needed. Here are just a few reasons to vote to table:

- 1). **The ordinance is open-ended.** One of its provisions defines encroachment to include "any fences, walls and similar structures within 3 feet of the paved street as described in the "Diablo Overlay provisions of the Contra Costa County Code, as such provisions may be amended from time to time." No one knows exactly what those "Diablo Overlay provisions" say in that they haven't been adopted yet. It is poor governance to subject our community to an undefined, unadopted ordinance.
- 2). **There is no provision grandfathering existing walls, fences, trees, and shrubs.** If passed, the ordinance would require immediate removal work on most Diablo properties along DCSD-maintained streets. Most of the Directors and the General Manager would be in violation of the new ordinance as would most of the community. Do you think that is what the community wants? How do you know? DCSD has had an encroachment ordinance for over 20 years. Why hasn't it been enforced? I would like the current President, who has been on the Board many years, and the GM, a longtime Board member, to answer that question. Whatever new ordinance is adopted, it must be uniformly and consistently enforced, and not occasionally and subjectively.
- 3). **The definition of "encroachment" is vague, subjective, and open-ended.** It includes any "obstruction that prevents full or partial access to a DCSD-Maintained Street or threatens the integrity of the DCSD -Maintained Street." There is no distance from the road limiting a fence or wall or plant-material from being deemed an "encroachment". The definition needs to be improved.
- 4). Every time a street in Diablo is paved, it expands. **Thus, more and more private property would be developmentally constrained by the ordinance over time.** The width of the streets needs to be defined in the ordinance as what now exists, or else by a specific width for specific road segments. Better yet, the ordinance should make clear that the roads will not be widened without the permission of the neighboring homeowners.

**Directors, unless you can explain to all your neighbors exactly how this ordinance will work and you agree with that, PLEASE VOTE TO TABLE IT.**

**2. THE BOARD SHOULD OPERATE BASED ON DEMOCRATIC, NOT AUTOCRATIC, PRINCIPLES.** I recommend that the Board Directors emphasize tonight the responsibility and the ability of each Director to fulfill their roles as equals on the Board. Unfortunately, the Board President continues to falsely assert that she has the sole authority under the Board bylaws to veto agenda items proposed by other Directors. She is wrong about the bylaws and displays a troubling arrogance toward other Directors and members of our community in asserting such authority. **I call upon the Board majority to make clear for the good of our community that EACH Director, ELECTED by our community as an equal to the others, has the right to place items on the agenda.**

As an example, I note that the DCSD President has continually refused Directors' (and residents') requests to put the County's proposed encroachment ordinance on the DCSD agenda. She claims that that proposed ordinance is not in DCSD's purview and that she has sole authority to determine DCSD's agenda, including the power to veto such requests. Both her claims are false. Of course the County's proposed ordinance is in DCSD's purview. DCSD is considering adopting an encroachment ordinance tonight. So is that subject matter not within its purview? Moreover, the DCSD was explicitly required by the County to educate Diablo residents about the County's proposed ordinance prior to its adoption and to enforce the County's ordinance if and when it is adopted. Clearly, the DCSD would be acting within its purview to weigh in on the ordinance. Indeed, the GM in a letter to County staff claimed that DCSD supports the County's ordinance, even though the President has never afforded the DCSD Board the opportunity to consider it.

**3. THE GENERAL MANAGER NEEDS TO INFORM THE ENTIRE BOARD OF HER COMMUNICATIONS WITH OTHER JURISDICTIONS. ON MULTIPLE OCCASIONS, THE BOARD HAS BEEN BLINDSIDED ABOUT IMPORTANT POLICY MATTERS BECAUSE THE GM HASN'T INFORMED THE BOARD ABOUT HER INTERACTIONS.** The General Manager has repeatedly undertaken interactions with County officials and staff and the Town of Danville staff without prior Board of Directors' authorization or failed to inform the Board of important policy questions that the Board needed to know about and decide, such as those being discussed in her ongoing communications with County staff regarding the County's proposed encroachment ordinance. The Directors should not have to rely on Public Records Act requests to the County or Town of Danville to keep apprised of the GM's activities.

**Directors, at a minimum, please require the GM to copy you on all her communications with other jurisdictions and obtain prior Board authorization/direction for each new or substantially different matter and/or when policy decisions are needed.**

**4. THE GM NEEDS TO INFORM THE BOARD THAT COUNTY REQUESTS FOR DMAC REVIEW OF SETBACK VARIANCE/OTHER BUILDING APPLICATIONS ARE BEING KEPT OFF THE DMAC AGENDA BECAUSE OF A POLICY THAT LETS THE PRESIDENT AND VICE-PRESIDENT DECIDE WHETHER THEY WILL BE ON AN AGENDA.** Last week, I asked the GM about a County notice I received about a setback variance request by a neighbor and whether the item would be on a DMAC agenda. I had some questions. The GM said DMAC had "no comment" and that there was a "longtime policy" giving the DCSD President and the Vice-President sole authority to decide if such matters are on the DMAC agenda.

Shouldn't all the Directors be informed about such requests and have the opportunity to place them on an agenda? I think so. In the matter currently under County review, for example, had the variance request been on the DMAC agenda, DMAC would have had the opportunity to discuss the DCSD encroachment ordinance and condition its recommendations for approval on compliance therewith. That was a missed opportunity.

**I recommend that the Board change the policy to have the GM send County requests for review to every Director, giving each the opportunity to place the matter on the DMAC agenda.** Also, if a resident has questions about such a request, the item should be placed on the agenda. When I was DMAC President for 6 years, all County requests for review were automatically placed on the DMAC agenda. We felt that policy best served all our residents, including those making applications to the County.

Thank you for your service to our community.

Sincerely,

Maryann Cella  
resident since 1991

**DIABLO COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS  
SPECIAL MEETING MINUTES  
DIABLO COUNTRY CLUB RED HORSE TAVERN  
MAY 30, 2023, 12:30 p.m.**

**CALL TO ORDER:** President Kathy Urbelis called the meeting to order at 12:00 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, Lorenz, Slavonia,

**Directors absent:** Chartier

**PUBLIC COMMENTS:**

Kay Batts expressed concern about the condition of Kay's Trail, specifically about the creek structure and the 7 steps that make the trail difficult for horses to navigate.

**CLOSED SESSION:**

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION pursuant to Government Code Section 54956.9(d)(2) (Receipt of a claim pursuant to the Government Claims Act from *Steve and Kristin Buck.*)

**RECONVENE IN OPEN SESSION:**

President Urbelis stated that there were no reportable actions.

**CALL OF NEXT MEETING/ADJOURNMENT:**

President Urbelis called the next regular meeting for June 13, 2023. There being no further business, the meeting was adjourned the at 12:35 p.m.

Diablo Community Services District by

Kathy Torru, General Manager