

**DIABLO COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS  
REGULAR MEETING AGENDA<sup>1</sup>  
DIABLO COUNTRY CLUB RED HORSE TAVERN TOO  
MONDAY, MAY 13, 2024, 6:00 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) Update Board on correspondence with Upper Mt Diablo Scenic Blvd property owners clarifying maintenance of Mt Diablo Scenic Blvd.

**FINANCES:** Director Lorenz

- a) Present the draft 2024-2025 DCSD budget.
- b) Present the DCSD Q3 Financial Report.
- c) Adopt Resolution 2024-01, authorizing the Measure B Special Tax rate for fiscal year 2024-25.

**ROADS:** Director Cox

- a) Authorize Director Cox and General Manager Torru to negotiate a contract with Dryco Inc. for asphalt repairs on lower Alameda Diablo and upper El Nido. Cost not to exceed \$46,000.

**SECURITY:** Director Slavonia

- a) Provide a security update since the last meeting.

**2. CONSENT CALENDAR**

- a) Approve the minutes of the April 8, 2024 Regular Meeting.
- b) Approve the minutes of the December 11, 2023 Regular Meeting
- c) Approve the minutes of the December 11, 2023 Special Meeting

**3. REPORTS**

**CONTRA COSTA COUNTY:**

Cameron Collins

**DIABLO PROPERTY OWNERS ASSOC:**

Leslie Keane

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

**DIABLO COUNTRY CLUB:**

Hank Salvo

**4. DIRECTOR COMMENTS**

**5. FUTURE AGENDA ITEM ANNOUNCEMENT**

Process and timeline for creation of a records retention policy that includes digitizing the District's records

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

The next DCSD Regular Board meeting is scheduled for June 10, 2024, at 6:00 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>.



**BBK**  
BEST BEST & KRIEGER LLP  
ATTORNEYS AT LAW

Martin de los Angeles  
(925) 977-3320  
martin.delosangeles@bbklaw.com

May 9, 2024

Ms. Nicola Place  
2550 Mt. Diablo Scenic Blvd.  
Diablo, CA 94528  
VIA EMAIL (nicola.place@gmail.com)

**Re: Request for Safety Striping**

Dear Ms. Place:

Our office serves as General Counsel to the Diablo Community Services District (“DCSD” or “District”). This letter responds to your letter dated February 23, 2024 regarding your request for safety striping for upper Mt. Diablo Scenic Blvd. (“Mt. Diablo Scenic”). The purpose of this letter is to clarify the District’s legal responsibilities with regard to safety striping, and road maintenance in general, of Mt. Diablo Scenic.

**Background**

As you know, in July 2011, the Contra Costa Local Agency Formation Commission (LAFCO) approved the annexation of eight properties located on the eastern side of upper Mt. Diablo Scenic to the Diablo Community Services District following a petition and application filed by property owners to annex their properties to DCSD. Copies of the LAFCO Executive Officer’s Report and Resolution approving the Mt. Diablo Scenic annexation to DCSD, dated July 13, 2011 (“LAFCO Annexation Documents”), are attached to this letter for your reference.

As provided in the LAFCO Annexation Documents, LAFCO approved the annexation based on its evaluation of several factors, and subject to certain terms and conditions, including the following:

- The eight properties extend to the centerline of Mt. Diablo Scenic and public use of the road for access to the Mt. Diablo State Park is provided by a public access easement held by the State.
- Mt. Diablo Scenic is a private road, owned jointly by the landowners of the properties along its length. The western side of the road is within the DCSD boundaries (after the annexation to DCSD in 2011, the properties on the eastern side of the road after Diablo Ranch Estates were added to the DCSD boundaries).
- Mt. Diablo Scenic does not meet County road standards and is burdened by a State road easement for access to Mt. Diablo State Park, so the District would not undertake maintenance of the road despite the annexation.

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- In June 2011, representatives from the State Legislature, California Department of Parks and Recreation (“DPR”), County Public Works, Save Mt. Diablo, and LAFCO staff met to discuss the history/disposition of the road and the interest/role of the various agencies. Notwithstanding the issues regarding road maintenance, including LAFCO’s acknowledgement that the “upper half [of Mt. Diablo Scenic] has not been improved in many years and has significantly deteriorated to a point where it poses an increasingly serious safety risk,” all parties agreed that the annexation was a first step in the right direction and supported bringing the proposal forward to LAFCO. (LAFCO Annexation Documents, p. 3.)
- As a condition of the annexation, the territory annexed to DCSD would be subject to any authorized or existing taxes, charges, and assessments comparable to properties within the District.

### **Road Maintenance and Repair of Mt. Diablo Scenic Remains the Responsibility of the State**

The District is an independent special district formed under the Community Services District Law (Government Code, §§ 61000 et seq.). Pursuant to this authority, the District provides security, street lighting, road maintenance, and parks and recreation services within its boundaries.

The LAFCO Annexation Documents make clear that while the purpose of the Mt. Diablo Scenic annexation to DCSD was for the properties considered in the proposal to avail of District services, road maintenance for Mt. Diablo Scenic would remain the responsibility of the DPR. The issue of road maintenance for Mt. Diablo Scenic was also previously addressed in *Siders v. State of California*, Contra Costa Superior Court Case No. 282534 (filed March 17, 1992), which determined that (1) the State has a duty to maintain its roadway easement over Mt. Diablo Scenic in proportion to its use, pursuant to Civil Code section 845. (See Civ. Code, § 845(a) [“The owner of any easement in the nature of a private right-of-way, or of any land to which any such easement is attached, shall maintain it in repair.”]); and 2) the costs of maintaining the roadway would need to be apportioned between property owners who abut or use the roadway, and other parties who may benefit from the easement and have a responsibility to contribute to the maintenance of the roadway.

Consistent with this determination, the LAFCO Annexation Documents identify a number of actions that would need to be performed by relevant agencies, namely the DPR and County, to facilitate future improvements to and maintenance of Mt. Diablo Scenic, including “exchanging information (i.e., County’s private road standards, examples of private road maintenance agreements, road standards of Diablo Ranch Estates project, etc.); developing short and long range road improvement/maintenance agreements; and developing a contract for initial road repair work.” (LAFCO Annexation Documents, p. 3.) In sum, the responsibility for maintenance and repair of Mt. Diablo Scenic lies with DPR, or at minimum, requires the coordination of multiple agencies and stakeholders, which has yet to develop. The District cannot unilaterally authorize and perform safety striping of the road, as doing so would interfere with the State’s easement or its maintenance.

Ms. Nicola Place

May 9, 2024

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Furthermore, DCSD Ordinance Code Chapter 6-2 (Road Acceptance), a copy of which is attached to this letter, provides that no road will be eligible to receive maintenance services from the District unless it meets the requirements set forth in the Chapter, including that the road meet the minimum construction and performance standards for private roads as established by the County. It should also be noted that there are roads within Diablo that are not maintained by the District. These roads include Caballo Ranchero Rd., Diablo Lakes, El Nido Place, Ranchitos del Sol, Reisewitz Rd., Via Diablo, and the road behind 1817 Calle Arroyo. All properties within the District, including the properties on these roads, are subject to the same annual parcel taxes.

### **Conclusion**

The District remains willing to assist the residents of upper Mt. Diablo Scenic in addressing and mitigating the safety concerns raised by residents. The District's authority to do so, however, is restricted by the State's road easement for access to Mt. Diablo State Park and as set forth in Chapter 6-2 of the District's Ordinance Code.

Sincerely,



Martin de los Angeles  
General Counsel  
Diablo Community Services District

#### Attachments:

1. July 13, 2011 LAFCO Executive Officer's Report and Resolution
2. DCSD Ordinance Code, Chapter 6-2

Cc: DCSD Board of Directors, DCSD General Manager, Steve and Wendy Moore, Marti Sketchley, Brian Moore, Paul and Hannah Craddick, Chris Beeson, Carol Berendsen, Emily Kevorkian, Grace and Randy Siu, Colleen and Winston Cervantes, Jenny and Lloyd Lee, Peter and Myra Hypnar, Becca Makarova, Ivan Makarov, Nancy and Hal Seibert, Leslie Forman, Laurie Bain, Gun Johnston, Cameron Collins

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT

July 13, 2011 (Agenda)

LAFCO 11-03 Mt. Diablo Scenic Blvd. Annexation to Diablo Community Service District (DCSD)

PROPONENT Landowners/Petitioners

ACREAGE & LOCATION The applicant proposes to annex 11± acres (eight properties) located on the eastern side of upper Mt. Diablo Scenic Blvd. and are contiguous to the existing District boundaries (Attachment 1).

SYNOPSIS

Seven property owners filed a petition and application with LAFCO to annex eight properties to DCSD. The purpose of the annexation is to receive District services, and to facilitate improvements to Mt. Diablo Scenic Blvd.

In May 2011, the Commission approved an expansion to the District's sphere of influence (SOI) to include the eight properties.

DISCUSSION

The Government Code sets forth factors that the Commission is required to consider in evaluating any proposed boundary change as discussed below (Government Code §56668). In the Commission's review and evaluation, no single factor is determinative. In reaching a decision, each is to be evaluated within the context of the overall proposal.

1. *Consistency with the Sphere of Influence (SOI) of Any Local Agency:*

The area proposed for annexation is within DCSD's SOI and within the County Urban Limit Line.

2. *Land Use, Planning and Zoning - Present and Future:*

Present land use in the area is residential; seven of the parcels are developed and one is undeveloped. The existing County General Plan designation for the area is Single Family Residential Low, and the properties are Zoned A2 - General Agricultural. The proposed annexation will not facilitate or result in changes in land use.

3. *The Effect on Maintaining the Physical and Economic Integrity of Agricultural Lands:*

There are no current Williamson Act Land Conservation Agreements within the project site.

4. *Topography, Natural Features and Drainage Basins:*

The area proposed for annexation lies at the foot of Mt. Diablo. The eastern portion of the properties is adjacent to the Mt. Diablo State Park boundary. The properties are moderately wooded with oak and mountain laurel trees. Mt. Diablo Scenic Blvd. winds along the western edge of the properties and terminates at the lower gate of the State Park.

The area to the west is developed and includes the Diablo Country Club which lies in the valley of Crook's Creek. Lake Diablo, a three-acre dammed creek, lies at the northern end of the Club properties adjacent to the State Park boundaries. The areas to the east and north include the foothills of Mount Diablo and are part of the State Park. The Park's lower reaches are largely grassland, scrub oaks and Manzanita.

5. *Population:*

There are six existing single-family dwelling units and one property containing two dwelling units. There is one vacant lot in the area proposed for annexation. The proposal will not facilitate development or a population increase.

6. *Fair Share of Regional Housing:*

Pursuant to Government Code §56668, LAFCO must consider in the review of a proposal the extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the regional council of governments. The proposed annexation will have no effect on regional housing needs.

7. *Governmental Services and Controls - Need, Cost, Adequacy and Availability:*

In accordance with Government Code §56653, whenever a local agency submits a resolution of application for a change of organization or reorganization, the local agency shall also submit a plan for providing services within the affected territory. The plan shall include all of the following information and any additional information required by the Commission or the Executive Officer:

- (1) An enumeration and description of the services to be extended to the affected territory.
- (2) The level and range of those services.
- (3) An indication of when those services can feasibly be extended to the affected territory.
- (4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
- (5) Information with respect to how those services will be financed.

The "Plan for Providing Services within the Affected Territory," as required by Government Code §56653, is on file in the LAFCO office. The properties proposed for annexation are served by various local agencies including, but not limited to, Contra Costa County, the San Ramon Valley Fire Protection District, Central Contra Costa Sanitary District, and East Bay Municipal Utility District (EBMUD).

The proposal before the Commission is to annex the properties to Diablo CSD in order to receive District services, including road improvement and maintenance services.

DCSD is an independent special district formed in 1968 as a successor district to the Diablo Utility District. The District serves the Diablo community, located northeast of the Town of Danville, between the unincorporated communities of Alamo and Blackhawk. The District encompasses 1.56± square miles and serves approximately 1,200 residents. Except for the recently approved amendment to the District's SOI related to the subject annexation, the District's SOI is coterminous with its service boundary.

DCSD currently provides police/security, street lighting, road maintenance, parks and recreation services (i.e., equestrian trails, parks, recreational buildings) as described below. Also, in 2008, LAFCO authorized the District to activate its latent power to finance the operations of a Municipal Advisory Council (MAC). The District is funded primarily through property tax, a special tax/assessment, and other fees for service.

The eight properties extend to the centerline of Mt. Diablo Scenic Blvd. and public use of the road for access to the Mt. Diablo State Park is provided by a public access easement held by the State. The attached map shows a parcel that is adjacent to the annexation area, but is not included in the proposed annexation as it does not have frontage on Mt. Diablo Scenic Blvd. The road is approximately one mile in length, terminating at the lower end of the Park gate. The lower half of Mt. Diablo Scenic Blvd. was constructed and improved in 2001 in conjunction with the Diablo Ranch Estates development; the upper half has not been improved in many years and has significantly deteriorated to a point where it poses an increasingly serious safety risk.

Mt. Diablo Scenic Blvd. is a private road, owned jointly by the landowners of the properties along its length. The western side of the road is within the DCSD boundaries. The owners on the eastern side of the road include the Athenian School and Diablo Rancho Estates on lower Mt. Diablo Scenic Blvd., and the petitioners on upper Mt. Diablo Scenic Blvd.

Neither the County nor DCSD will assume responsibility for road maintenance as the road does not presently meet local agency standards. The County Public Works Department estimates that road repairs will cost between \$135,000 for minimal overlay work, and up to \$500,000 for a reconstruction. The source of funding has not been identified.

The State has a road easement for access to Mount Diablo State Park, and there is significant Park and bicycle use on the road. Over the years, there have been discussions among the property owners, DCSD, County and State officials and other interested parties, including Save Mount Diablo and the cycling community, regarding options for improving the road.

On June 14, representatives from the offices of Senator DeSaulnier's and Assembly Member Buchanan, California Department of Parks & Recreation, County Public Works, Save Mount Diablo, and LAFCO staff met to discuss the history/disposition of the road and the interest/role of the various agencies. Together, the group developed a plan to facilitate future improvements to and maintenance of Mt. Diablo Scenic Blvd. Next steps involve exchanging information (i.e., County's private road standards, examples of private road maintenance agreements, road standards of the Diablo Ranch Estates project, etc.); developing short and long range road improvement/maintenance agreements; and developing a contract for initial road repair work. The tasks were assumed by the various parties.

All parties agreed that the annexation was a first step in the right direction and supported bringing the proposal forward to the Commission at this time.

#### 8. *Timely Availability of Water and Related Issues:*

The area proposed for annexation is located within the EBMUD service area. EBMUD provides wholesale water, retail water, wastewater collection and wastewater treatment services for an area of 331± square miles in Contra Costa and Alameda counties, serving over 1.4 million people. Water service includes production, distribution, retail, treatment, recycling and conservation services. Historically, over 90% of EBMUD's water comes from the Mokelumne River watershed. Other water sources include local watershed runoff and Central Valley Project (CVP) (Sacramento River).

The proposed annexation will have no effect on water usage, and will not lead to the construction of new or expansion of existing water facilities.



9. *Assessed Value, Tax Rates and Indebtedness:*

The area proposed for annexation is within tax rate area 66057. The assessed value for the annexation area is \$6,970,075 (2010-11 roll). The territory being annexed shall be liable for all authorized or existing taxes comparable to properties presently within the annexing agencies.

10. *Environmental Impact of the Proposal:*

With respect to the environmental review, LAFCO staff has reviewed the proposed SOI amendment and annexation, and has determined that the project is exempt from the California Environmental Quality Act (CEQA). The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. While the annexation would have no effect on the physical environment, future road improvement work could be considered a "project" under CEQA and environmental review may be required at that time.

11. *Landowner Consent and Consent by Annexing Agency:*

According to County Elections, there are fewer than 12 registered voters in the area proposed for annexation. Thus, the area proposed for annexation is considered uninhabited.

The annexation application was filed by seven of the eight landowners, and indicates that less than 100% of the affected landowners voters have provided written consent to the annexation. Thus, the Commission's action is subject to notice, hearing, as well as conducting authority (protest), proceedings. All landowners and registered voters within the proposal area(s) and within 300 feet of the exterior boundaries of the area(s) have received notice of the July 13 hearing. If the Commission approves the annexation, a subsequent notice and protest hearing will follow. Authority to conduct the protest hearing has been delegated to the LAFCO Executive Officer.

12. *Boundaries and Lines of Assessment:*

The annexation area is within DCSD's SOI and contiguous to existing DCSD boundaries. All of the properties proposed for annexation extend to the centerline of Mt. Diablo Scenic Blvd. In September 2009, LAFCO completed the *Central County Subregional MSR* covering city and other municipal services. The MSR included a review of DCSD services and boundaries and provided SOI options and recommendations. One of the options was to expand the District's SOI. As noted in the MSR report, DCSD staff indicated that the District was considering expanding its SOI and service boundary to include the subject properties along Mt. Diablo Scenic Blvd, noting that this area contains a number of residences which have a community of interest with Diablo, as they have Diablo addresses, use the Diablo Post Office, and travel on Diablo roads; and that these residents could potentially benefit from services provided by DCSD.

13. *Environmental Justice:*

LAFCO is required to consider the extent to which proposals for changes of organization or reorganization will promote environmental justice. As defined by statute, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. The proposed annexation is not expected to promote or discourage the fair treatment of minority or economically disadvantaged groups.

## ALTERNATIVES FOR COMMISSION ACTION

After consideration of this report and any testimony or additional materials that are submitted the Commission should consider taking one of the following options:

- Option 1** Approve the annexation to Diablo CSD as submitted to include 11± acres (eights parcels) as shown on the attached map (Attachment 1).
- A. Determine that the project is exempt pursuant to CEQA Guidelines, Section 15061(b)(3).
- B. Adopt this report and approve the proposal, to be known as *Mt. Diablo Scenic Blvd. Annexation to Diablo Community Services District* subject to the following terms and conditions:
1. The territory being annexed shall be liable for the continuation of any authorized or existing special taxes, assessments and charges comparable to properties presently within the annexing agency.
  2. That the applicant has delivered an executed indemnification agreement providing for the applicant to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
- C. Find that the subject territory is uninhabited, and that less than 100% of the affected landowners have consented to the annexation.
- D. Designate the Contra Costa LAFCO as the conducting authority for the protest proceedings; the authority for which has been delegated to the LAFCO Executive Officer, who shall give notice and conduct a public hearing on the matter pursuant to the Government Code.

**Option 2** Adopt this report and DENY the proposal.

**Option 3** If the Commission needs more information, CONTINUE this matter to a future meeting.

### RECOMMENDED ACTION:

Approve Option 1.

  
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LOU ANN TEXEIRA, EXECUTIVE OFFICER  
CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION

**RESOLUTION NO. 11-03**

RESOLUTION OF THE CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MAKING DETERMINATIONS AND APPROVING  
**MT. DIABLO SCENIC BLVD ANNEXATION  
TO DIABLO COMMUNITY SERVICES DISTRICT**

WHEREAS, the above-referenced proposal has been filed with the Executive Officer of the Contra Costa Local Agency Formation Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act (Section 56000 et seq. of the Government Code); and

WHEREAS, at the time and in the manner required by law the Executive Officer has given notice of the Commission's consideration of the proposal; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to the proposal including, but not limited to, the Executive Officer's report and recommendation, the environmental document or determination, Spheres of Influence and applicable General and Specific Plans; and

WHEREAS, information satisfactory to the Commission has been presented that no affected landowners/registered voters within the annexation area object to the proposal; and

WHEREAS, the Local Agency Formation Commission determines the proposal to be in the best interests of the affected area and the total organization of local governmental agencies within Contra Costa County;

NOW, THEREFORE, the Contra Costa Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

1. That Commission determines the project is exempt from environmental review pursuant to CEQA Guidelines, Section 15061(b)(3).
2. Said annexation is hereby approved.
3. The subject proposal is assigned the distinctive short-form designation:

MT. DIABLO SCENIC BLVD ANNEXATION TO DIABLO COMMUNITY  
SERVICES DISTRICT

4. The boundaries of the affected territory are found to be definite and certain as approved and set forth in Exhibit A, attached hereto and made a part hereof.
5. The subject territory shall be liable for any authorized or existing taxes, charges and assessments comparable to properties within the annexing agency.

Contra Costa LAFCO  
Resolution No. 11-03

6. That the applicant delivered an executed indemnification agreement between the applicant and Contra Costa LAFCO providing for the applicant to indemnify LAFCO against any expenses arising from any legal actions challenging the annexation.
7. The territory proposed for annexation is uninhabited.
8. The proposal has less than 100% consent of affected landowners, and is subject to a conducting authority proceeding.
9. All subsequent proceedings in connection with this annexation shall be conducted only in compliance with the approved boundaries set forth in the attachments and any terms and conditions specified in this resolution.

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PASSED AND ADOPTED THIS 13<sup>th</sup> day of July 2011, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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MICHAEL R. MCGILL, CHAIR, CONTRA COSTA LAFCO

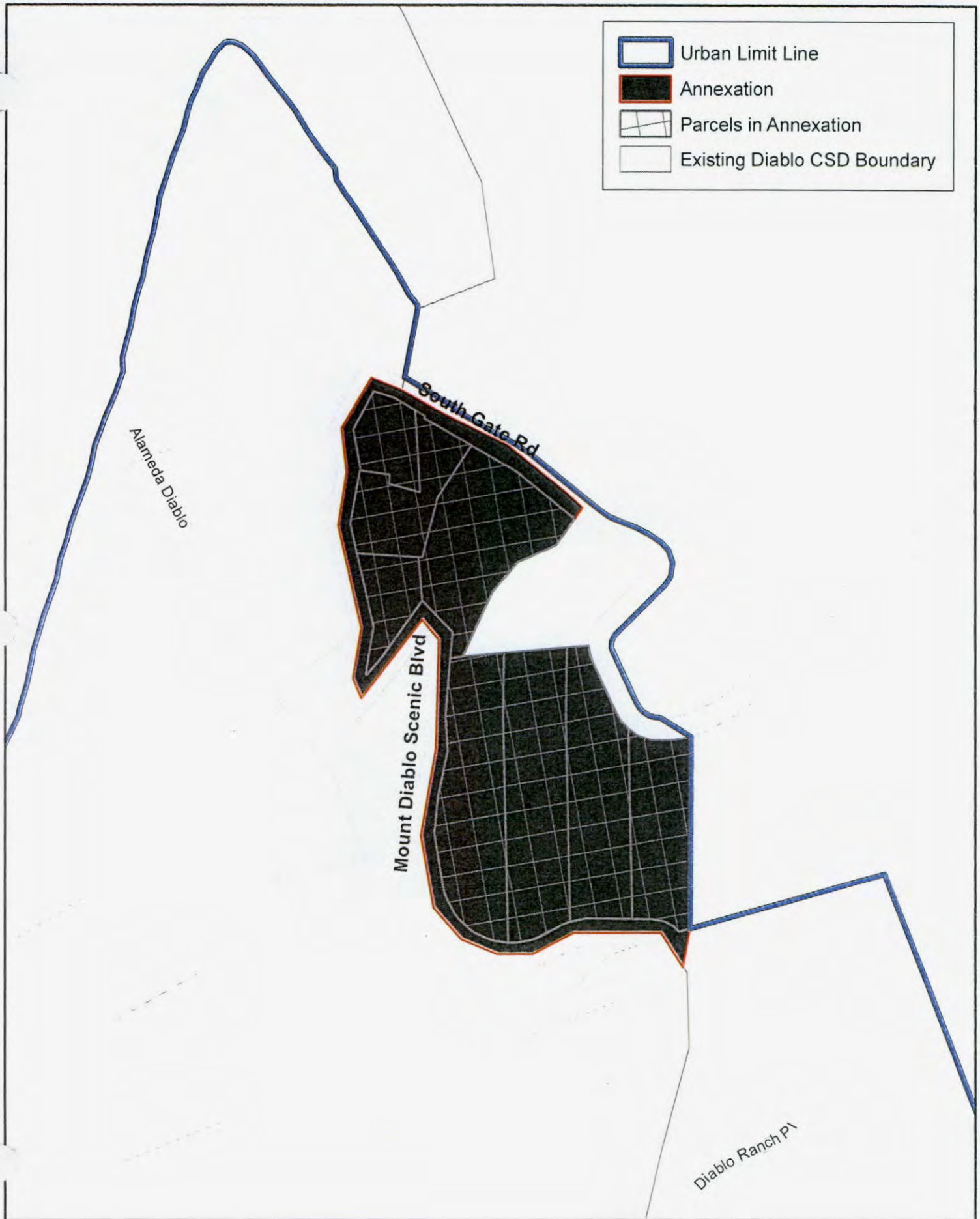
*I hereby certify that this is a correct copy of a resolution passed and adopted by this Commission on the date stated.*

Dated: July 13, 2011

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Lou Ann Texeira, Executive Officer

# LAFCO No. 11-03: Mt. Diablo Scenic Blvd. Annexation to Diablo Community Services District



Paragraph 1 of this section, excluding emergency vehicles, on or over said bridges.

3. Upon application in writing and if good cause appears the DIABLO COMMUNITY SERVICE DISTRICT may at their discretion issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles or special mobile equipment of a size or weight of vehicle or load exceeding the maximum specified in this ordinance.

4. Violation of Paragraph 2 of this section shall be an be punishable by a fine as set forth in California Vehicle Code Section 42030.

(Added by Ord. 1991-01; Restated by Ord. 1993-04 §6; Codified by Ord. 1993-05.)

5-8-226 Mt. Diablo Scenic Boulevard speed limit.

1. The maximum speed on Mt. Diablo Scenic Boulevard between the northern most part of Mt. Diablo Scenic Boulevard which is within the DIABLO COMMUNITY SERVICES DISTRICT and the intersection of Mt. Diablo Scenic Blvd. and Diablo Road shall be (25) miles per hour.

2. Any violation of Paragraph 1 of this section shall be an infraction.

(Added by Ord. 1992-2; Restated by Ord. 1993-04 § 11; Codified by Ord, 1993-05.)

## Title 6

### BUILDING REGULATIONS AND PUBLIC WORKS

#### Chapter 6-2 ROAD ACCEPTANCE

##### Sections:

6-2-202	Application.
6-2-204	Criteria for Acceptance.
6-2-206	Certificate of Compliance.
6-2-208	Inspection by Engineer.
6-2-210	Option; Proof of Compliance.
6-2-212	Name of Road; Writing.

6-2-202 Application. An Applicant or Applicants must file an application with the Board of Directors of the DIABLO COMMUNITY SERVICES DISTRICT requesting that said District accept maintenance responsibilities of the private road described therein. Such Applicant(s) must be a landowner within the boundaries of said District.

6-2-204 Criteria for acceptance. The following criteria shall be met before DIABLO COMMUNITY SERVICES DISTRICT will accept maintenance responsibility for any such private road:

a. The portion of such private road to be maintained by DIABLO COMMUNITY SERVICES DISTRICT must lie entirely within the boundaries of said District;

b. Such private road shall meet the minimum construction and performance standards for private roads as established by ordinances of the County of Contra Costa. Said ordinances are incorporated by reference herein;

c. Such private road must have a four foot (4') shoulder on each side of the paved portion of said road;

d. Adjacent landowners must dedicate an easement for road use to DIABLO COMMUNITY SERVICES DISTRICT or lease such portion of road to said District for a period of not less than fifty (50) years; and

e. Such private road must serve not less than five (5) residences.

6-2-206 Certificate of compliance. The Applicant, at the Applicant's expense, must provide DIABLO COMMUNITY SERVICES DISTRICT with a Certificate, from a licensed civil engineer, stating that such private road meets the above described criteria.

6-2-208 Inspection by engineer. The Applicant must consent to an inspection by a qualified engineer, as designated by DIABLO COMMUNITY SERVICES DISTRICT. All inspection fees and costs incurred shall be borne by the Applicant.

6-2-210 Option; Proof of Compliance. At the option of the Board of Directors of the DIABLO COMMUNITY SERVICES DISTRICT, the Applicant(s) shall comply with the requirements set forth in either Section 6-3-206, or Section 6-2-208 or both Section 6-2-206 and Section 6-2-208 of this chapter.

6-2-212 Name of Road; Writing. The Applicant must consent, in writing, that the DIABLO COMMUNITY SERVICES DISTRICT shall have exclusive right to name such private road.

(Added by Ord. 1991-04; Restated by Ord. 1993-04 § 9; Codified by Ord. 1993-05.)

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Diablo Community Services District  
Budget Assumptions  
FY 2024-25

**FY 2025 Budget Assumptions**

<b>Revenue</b>	\$945k	Revenue is provided by County Ad Valorem Tax and a voter approved Special Tax. 3% annual increase.
<b>Security</b>	406k	District security is provided by the Contra Costa County Sheriff's Department. Diablo has 1 dedicated 40 hour a week deputy. The budget includes a 6% annual increase. An additional 20 hours of monthly traffic enforcement is budgeted for May through September.
	12k	Annual Flock system fee. Fee fixed through October 2026
<b>Roads, Culverts &amp; Bridges</b>	80k	Roads - 60k asphalt repair of various roads, 20k creek bank integrity assessment by ENGEO at the request of the Water Resource Board.
	400k	Bridge repair estimate. \$1.8m is budgeted over 5 years. The cost will be much higher if one or more of the bridges need to be replaced.
	265k	Culvert assessment and maintenance
	51k	45k Kay's Trail creek crossing restoration, and 6k Kay's Trail annual maintenance.
	14k	November thru April storm patrol
<b>Professional</b>	77k	37.5 hours of general manager and 9 hours of general counsel monthly.
	10k	Annual audit fee. A 4 year contract was signed with Richardson & Company in 2022.
	1k	Other professional expenses
	3k	Software annual fees: QuickBooks, Zoom and GoDaddy domain, website and email products.
	2k	County/State fees and notices
<b>Insurance</b>	42k	No change in insurance program. Policy renews annually with GSRMA
<b>Administration</b>	2k	District records storage unit rental, PO box rental and misc admin items.
	20k	One-time thrid party cost to catalog and digitize the District's records.
<b>Cash</b>		Cash balance at yearend 2024 and 2025 are budgeted at \$1,085k and \$644k, respectively. The District's minimum cash balance goal is 500k.

**5 Year Budget Assumptions**

<b>Revenue</b>	3% annual increase in Ad Valorem and Special Tax.
<b>Security</b>	Sheriff security costs increase annually 6%.
<b>Roads, Culverts &amp; Bridges</b>	Focused on retrofit/replace of 3 bridges and annual maintenance of roads and culverts.
<b>Professional and Administrative</b>	3% average annual increase. No new services or fees budgeted.



Diablo Community Services District  
FY 2024-25 Budget

FY-July thru June	Actual		2025 Budget					Forecast			
	2022-23	2023-24*	Q1	Q2	Q3	Q4	YTD	2026	2027	2028	2029
<b>Beginning Cash</b>	507,532	504,842	1,084,558	896,207	956,214	782,723	1,084,558	644,769	601,994	352,724	308,225
<b>Revenue</b>											
Ad valorem & special tax	886,989	917,934	-	520,010	-	425,462	945,472	973,836	1,003,051	1,033,143	1,064,137
Other	65	324,693	-	-	-	-	-	-	-	-	-
<b>Total Income</b>	<b>887,054</b>	<b>1,242,627</b>	<b>-</b>	<b>520,010</b>	<b>-</b>	<b>425,462</b>	<b>945,472</b>	<b>973,836</b>	<b>1,003,051</b>	<b>1,033,143</b>	<b>1,064,137</b>
<b>Expenses</b>											
Security	316,015	378,623	106,116	110,316	98,316	103,516	418,264	430,640	456,478	483,867	512,899
Roads/bridges/culverts	362,905	185,510	20,000	316,600	33,400	440,000	810,000	447,000	647,500	448,500	249,000
Professional	183,642	108,747	21,150	31,487	20,850	19,700	93,187	94,862	101,233	101,064	105,205
Insurance	40,389	41,091	41,035	-	875	-	41,910	41,910	41,910	41,910	44,006
Administrative	2,827	2,594	50	1,600	20,050	200	21,900	2,200	5,200	2,300	2,300
<b>Total Expenses</b>	<b>905,777</b>	<b>716,565</b>	<b>188,351</b>	<b>460,003</b>	<b>173,491</b>	<b>563,416</b>	<b>1,385,261</b>	<b>1,016,612</b>	<b>1,252,322</b>	<b>1,077,641</b>	<b>913,410</b>
Net Income	(18,723)	526,062	(188,351)	60,007	(173,491)	(137,954)	(439,789)	(42,776)	(249,270)	(44,498)	150,728
Incr/(decr) in AP/prepays	16,034	53,654									
<b>Ending Cash (500k min)</b>	<b>504,842</b>	<b>1,084,558</b>	<b>896,207</b>	<b>956,214</b>	<b>782,723</b>	<b>644,769</b>	<b>644,769</b>	<b>601,994</b>	<b>352,724</b>	<b>308,225</b>	<b>458,953</b>
<b>Other Financial Data</b>											
Reserves (bridge/culvert) (Unfunded)	760,928	857,287					953,705	1,051,216	1,149,853	1,249,648	1,350,638

\* Actual thru Apr plus May, June Forecast

Diablo Community Services District  
Financial Report  
March 31, 2024

	July	August	September	October	November	December	January	February	March	Actual YTD	Budget YTD
<b>Beginning Cash</b>	504,843	434,909	402,418	359,520	329,968	285,166	1,050,122	996,066	927,144	504,843	504,843
<b>Revenue</b>											
Tax revenue	-	-	-	17,379	-	494,232	-	-	-	511,611	493,218
Other revenue	3	43	2	2	3	324,372	9	7	96	324,537	-
<b>Total Income</b>	<b>3</b>	<b>43</b>	<b>2</b>	<b>17,381</b>	<b>3</b>	<b>818,604</b>	<b>9</b>	<b>7</b>	<b>96</b>	<b>836,148</b>	<b>493,218</b>
<b>Expenses</b>											
Sheriff services	31,196	28,244	29,250	29,278	45,938	29,673	30,405	30,621	29,018	283,623	311,538
Road/bridge/culvert/trail	5,915	1,028	4,076	3,874	2,628	41,981	4,582	1,971	3,942	69,997	228,000
Professional services	8,906	10,675	14,100	10,653	8,142	8,185	6,228	8,815	10,016	85,719	58,702
Insurance	40,239	-	-	-	-	-	852	-	-	41,091	41,015
Administrative	-	15	1,542	-	-	-	37	-	-	1,594	17,250
<b>Total Expenses</b>	<b>86,256</b>	<b>39,962</b>	<b>48,968</b>	<b>43,805</b>	<b>56,708</b>	<b>79,839</b>	<b>42,104</b>	<b>41,407</b>	<b>42,976</b>	<b>482,024</b>	<b>656,505</b>
Net Income	(86,253)	(39,919)	(48,966)	(26,424)	(56,705)	738,765	(42,095)	(41,400)	(42,880)	354,124	(163,287)
Incr/(decr) in payable/prepaid	16,319	7,428	6,068	(3,128)	11,903	26,191	(11,961)	(27,522)	903	26,200	(256,396)
<b>Ending Cash</b>	<b>434,909</b>	<b>402,418</b>	<b>359,520</b>	<b>329,968</b>	<b>285,166</b>	<b>1,050,122</b>	<b>996,066</b>	<b>927,144</b>	<b>885,167</b>	<b>885,167</b>	<b>597,952</b>
<b>Other Financial Data</b>											
Prepaid/deposit											
Reserves (bridge/culvert)*	765,928	770,928	775,928	780,928	785,928	824,256	832,286	837,286	842,286		
Accounts payable	63,715	71,142	77,212	44,805	53,367	112,176	100,215	42,073	73,597		
Accrued expense											

**Notes**

\* reserves are unfunded

## RESOLUTION NO. 2024-01

### RESOLUTION OF THE DIABLO COMMUNITY SERVICES DISTRICT DIRECTING COUNTY AUDITOR TO LEVY VOTER-APPROVED PARCEL TAX (MEASURE B OF MARCH 2018)

**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 2024-2025 to be \$790.78, \$152.92, and \$27,994.18 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 2024-25.

**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 2024-25.** 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 hereby directed to include the Tax on the tax rolls for Fiscal Year 2024-25 as follows: **\$790.78** for Improved Parcels, **\$152.92** for Unimproved Parcels, and **\$27,994.18** 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 California Government Code Section 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 2024-2025, 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 13, 2024.

Adopted by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Kathy Urbelis, President of the Board

Attest:

\_\_\_\_\_  
Kathy Torru, General Manager

**DIABLO COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS  
SPECIAL MEETING MINUTES  
DIABLO COUNTRY CLUB RED HORSE TAVERN TOO  
APRIL 8, 2024 6:00 P.M.**

**CALL TO ORDER:** Director Greg Lorenz called the meeting to order at 6:01 pm.

Director Lorenz welcomed Directors and public and explained the rules for public comment.

**ROLL CALL:** Director Chartier called the roll as follows:

**Directors present: Lorenz, Slavonia, Chartier**

**Directors absent: Urbelis, Cox**

**WELCOME OFFICIALS:**

Martin de los Angeles (of Best, Best, & Krieger LLP, General Counsel)

Cameron Collins (Supervisor Anderson's Liaison)

Hank Salvo (Diablo Country Club Liaison)

Kathy Torru (General Manager)

**PUBLIC COMMENTS:**

Kay Batts expressed her appreciation of CCC Sheriff Deputy Chris Stoffels for the level of service and care he provides the residents of Diablo.

Nicola Place read aloud the attached comments.

Jeff Eorio expressed his support for Nicola's comments and asked that the DCSD Board address the upper Mt. Diablo Scenic Blvd safety concerns raised. Jeff also asked that the Board adopt a records retention policy and bring back the proposed county 3-foot setback ordinance for a vote.

Becca Makarov read aloud the attached comments.

**BOARD/STAFF COMMUNICATION AND ACTIONS:**

**ADMINISTRATIVE:**

Director Lorenz presented the DCSD Financial Report for the first 6 months of fiscal year 2023-24. A copy of the Financial Report is available on the DCSD website under the Documents tab.

Director Lorenz presented the DCSD 2023 State Financial Transaction Report which was filed with the State in January. A copy of the report is available on the DCSD website under the Documents tab.

**ROADS:**

General Manager Torru presented the Board with the WIN Structural Consulting proposal for the structural assessment of Diablo's 3 bridges and explained the process the District undertook to identify and evaluate the various proposals. On motion by Director Lorenz and a second by Director Slavonia the Board authorized Director Cox and the General Manager to negotiate a contract with WIN Structural Consulting for an amount not to exceed \$64,000. Motion passed 3-0.

**SECURITY:**

Director Slavonia reported that there were no crimes reported last month. The Deputy issued 6 vehicle citations and 8 warnings.

**CONSENT CALENDAR:**

The approvals of the December 11, 2023 Special and Regular meeting minutes were continued until the May 13, 2024 meeting. A quorum of Directors who attended the December meetings was not present.

**REPORTS:**

**CONTRA COSTA COUNTY:** Cameron Collins, liaison to Supervisor Candace Andersen, informed the Board that Supervisor Candace Andersen will chair the Board of Supervisors in 2025 and will be hosting a Board of Supervisors luncheon in January 2025 at Diablo Country Club.

Cameron, in response to safety concerns raised by Nicola Place during public comment, informed the Board that she had been in contact with the State Park to inquire about the maintenance of Mt Diablo Scenic Blvd and offered to connect Nicola with the State Park representative to work on a plan to address her concerns. Cameron explained to Nicola and the Board that Mt Diablo Scenic Blvd is a private road and that the State Park has an easement over the road. The maintenance of Mt Diablo Scenic Blvd is the responsibility of the State Park and the adjacent property owners and neither the County nor the DCSD has the authority to perform maintenance on the road.

**DIABLO PROPERTY OWNERS' REPORT:** No report.

**DIABLO COUNTRY CLUB:** Hank Salvo reported that the Club House project is on schedule and will be opened to members the end of May.

Hank Salvo reported there was vandalism to the golf course by golf carts overnight last week. If residents see golf carts on the golf course at night, please call the sheriff's department.

**DIRECTOR COMMENTS:** None

**FUTURE AGENDA ITEMS:** None

**CALL OF NEXT MEETING/ADJOURNMENT:**

Director Lorenz called the next meeting for May 13, 2024 at 6:00 pm at Diablo Country Club. There being no further business, the meeting was adjourned at 6:37 p.m.

Diablo Community Services District by

Kathy Torru, General Manager

**Date:** February 23, 2024

**To:** Diablo Community Services District Board, General Manager  
and General Counsel (via email)

Kathy Urbelis, President  
Matthew Cox, Vice President & Roads Commissioner  
Jerry Slavonia, Security Commissioner  
Christine Chartier, Community Liaison Commissioner  
Greg Lorenz, Finance Commissioner  
Kathy Torru, General Manager  
Martin De Los Angeles, General (Legal) Counsel

**From:** Diablo Owners & Residents on Upper Scenic, AKA The Danger Zone

**RE:** Request #9 for Safety Striping

**CC:** Owners & Residents of Upper Scenic (via email)

Dear Diablo Community Services District (DCSD) Board, General Manager, and General Counsel,

My name is Nicola Place and I live on Mt. Diablo Scenic Blvd, along with 25 other owners and residents. We all live on the narrow upper portion of Scenic, the only road in Diablo that has ever had any fatalities; sadly, there have been two fatalities on Upper Scenic. This is why we also call our section of Scenic "The Danger Zone."

In 2023 alone we addressed the DCSD Board eight times, each time requesting that the DCSD take action to make Mt. Diablo Scenic safer. Specifically, we repeatedly asked for the DCSD to fund new double yellow striping on Scenic, a task that is simple, quick, effective, and very low cost. Keep in mind that we are part of Diablo: each and every owner on both upper and lower Scenic pays DCSD dues.

Despite our repeated, clear, and reasonable requests, we have received NO response of any kind to any of those eight communications. Furthermore, the matter has never been added to the DCSD Agenda for discussion or consideration.

We encourage you to consider the following:

- There have been TWO fatalities on Upper Scenic. Both were the direct result of road users being over the center of the road and both of which happened before there was double yellow striping. Neither led to a lawsuit but we cannot assume that will be the case in the future.

- Whether in response to a fatality or a serious injury, it is likely that the DCSD will be named in any such lawsuit.
- When this happens, your persistent and well documented refusal to take any action on a simple, inexpensive and effective safety measure, requested multiple times by fee-paying Diablo residents on Scenic, and which is an action that falls well within the purview of the Districts' services, will come to the attention of the court. We are not attorneys, but we fear this will not go well.

We again request your response to the following questions:

1. When will striping for Scenic be on the DCSD Agenda?
2. When will the striping be completed?

Thank you,

Nicola Place and the 25 owners and residents of Upper Mt. Diablo Scenic, AKA The Danger Zone

Steve and Wendy Moore  
 Marti Sketchley  
 Brian Moore  
 Paul and Hannah Craddick  
 Chris Beeson  
 Carol Berendsen  
 Emily Kevorkian  
 Grace and Randy Siu  
 Colleen and Winston Cervantes

Jenny and Lloyd Lee  
 Peter and Myra Hypnar  
 Becca Makarova  
 Ivan Makarov  
 Nancy and Hal Seibert  
 Leslie Forman  
 Laurie Bain  
 Gun Johnston

Family of Maayan Jones, who was killed on upper Mt. Diablo Scenic in 2019:





Hello,

I want to introduce myself. My name is Rebecca Makarova. My husband, I and our four children moved to Diablo last August. We have three sons and one daughter. Their ages are 16, 14, 12, and 10 years old. We live on the upper end of Mt. Diablo Scenic Blvd. I've heard it referred to as "The Danger Zone." Despite the concerning nickname, it's a lovely area and we've really enjoyed calling this our new home.

Being new to Diablo, I'd really appreciate clarification on this safety and maintenance topic and the problem with DCSD providing yellow road striping on Scenic Blvd, especially as there seems to be misunderstandings.

We own a home in Diablo and therefore, we pay taxes to the Diablo Community Service District as per our property tax bill. And as you may know, the DCSD website states "the DCSD provides security and road maintenance services to the Diablo community."

I've seen the sheriff drive up Mt. Diablo Scenic Blvd at least once a day, so I'm assuming this is the security. And if that's the case then why wouldn't the road maintenance be applicable as well? If not all of the maintenance, then why not at least the simple and inexpensive, but very effective yellow striping down the center?

Currently, there are some sections of the road with yellow striping, which is extremely helpful to keep drivers on the correct side of the road. Unfortunately, it is faded and not all the road on the upper end (or "Danger Zone") has the yellow striping down the center.

Since the taxes and dues that we pay are meant to cover this, a "GoFundMe" campaign (as suggested by a board member) is not appropriate. We've already paid for it.

With the weather warming up and more traffic on Scenic Blvd, safety for my family is a big concern and action must be taken sooner than later. When will Scenic Blvd have yellow striping to address the safety concerns? I'd really appreciate a response from the board with an action plan before next month's DCSD meeting. On behalf of my children, family, and all road users on Scenic Blvd, please let us know when the yellow striping will be completed. Again, it's nice to formally meet you and thank you for your time.

**DIABLO COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS  
REGULAR MEETING MINUTES  
DIABLO COUNTRY CLUB RED HORSE TAVERN TOO  
DECEMBER 11, 2023, 6:00 P.M.**

**CALL TO ORDER:** President Kathy Urbelis called the meeting to order at 6:00 pm.

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**

**OFFICIALS PRESENT:**

Martin de los Angeles (of Best, Best, & Krieger LLP, General Counsel)

Cameron Collins (Supervisor Anderson's Liaison)

Hank Salvo (Diablo Country Club Liaison)

Kathy Torru (General Manager)

**PUBLIC COMMENTS:**

Jeff Eorio read aloud the attached comments.

Tony Geisler disagreed with Jeff Eorio's comments and stated that no easement exists at the Alameda Diablo-Mt Diablo Scenic Blvd cut through.

**BOARD/STAFF COMMUNICATION AND ACTIONS:**

**CONSENT CALENDAR:**

On motion by Director Slavonia and second by Director Cox the Board approved the consent calendar. Motion passed 4-0.

**ADMINISTRATIVE:**

On motion by Director Cox and second by Director Lorenz the Board directed the General Manager to communicate the District's Encroachment Ordinance (Ordinance No 2023-01) to Diablo property owners. Motion passed 4-0.

**ROADS:**

Director Cox reported that the District has received the full amount of the FEMA 2022-23 Winter Storm damage financial assistance application. The amount received is \$312,450.

On motion by Director Lorenz and second by Director Urbelis, the Board authorized Director Cox and General Manager Torru to negotiate a contract with Marshall Brothers Enterprise Inc for the repair of Casa Nuestra, in an amount not to exceed \$37,000. Motion passed 4-0.

**SECURITY:**

Director Slavonia reported that 3 of the 4 license plate reader cameras had been installed and that the 4<sup>th</sup> camera would be installed in the next couple of weeks.

Director Slavonia reported that the District has no additional information on the residential burglary that occurred last month. The sheriff's department is investigating.

**REPORTS:**

**CONTRA COSTA COUNTY:** Cameron Collins reported that Supervisor Candace Andersen will be Diablo's Supervisor for the next 5 years as no candidate filed papers opposing Supervisor Andersen in the 2024 general election.

**DIABLO PROPERTY OWNERS' REPORT:** No report.

**DIABLO COUNTRY CLUB:** Hank Salvo stated that there was nothing to report.

**DIRECTOR COMMENTS:** None

**FUTURE AGENDA ITEMS:** None

**CALL OF NEXT MEETING/ADJOURNMENT:**

President Urbelis called the next meeting for January 8, 2024 at 6:00 pm at Diablo Country Club. There being no further business, the meeting was adjourned at 6:15 p.m.

Diablo Community Services District by

Kathy Torru, General Manager

December 2023 DCSD Public Comment by Jeff Eorio

Happy Holidays and Merry Christmas Neighbors

I am happy to see this encroachment ordinance come back for approval so quickly and here I thought this too would become a contentious issue. Now, bring back the 3' setback request to the County and the records retention policy just as quickly. There are now six new homes within 1000' of my property and so far we are OK with the 3' set backs, but who knows what plans there are for the three construction sites that are either just starting or only 50% completed. We need the 3' setback and you have the votes to approve! Please move this forward!

I am distributing a history of the upper Alameda Diablo Easement that has been in continuous use for over 100 years as access to Mt. Diablo State Park and Mt. Diablo Scenic Blvd. The history I am providing reviews both the time that Alameda Diablo was THE primary access road to Mt. Diablo and after the 1979 subdivision. I have provided copies for the Board and several for interested parties.

Associated with the Easement Issue, for your information, is the new GoFundMe campaign to raise funds for the legal team to fight the blockage of the easement back in September which has of today, has raided over \$12,000 since it launched late last week with the support of \$1,000 to \$5,000 donations from Diablo Residents and over 30 donations from impacted citizens, plus the declarations of about 50 Diablo residents supporting the permeant re-opening of the easement in the legal filing just a month ago.

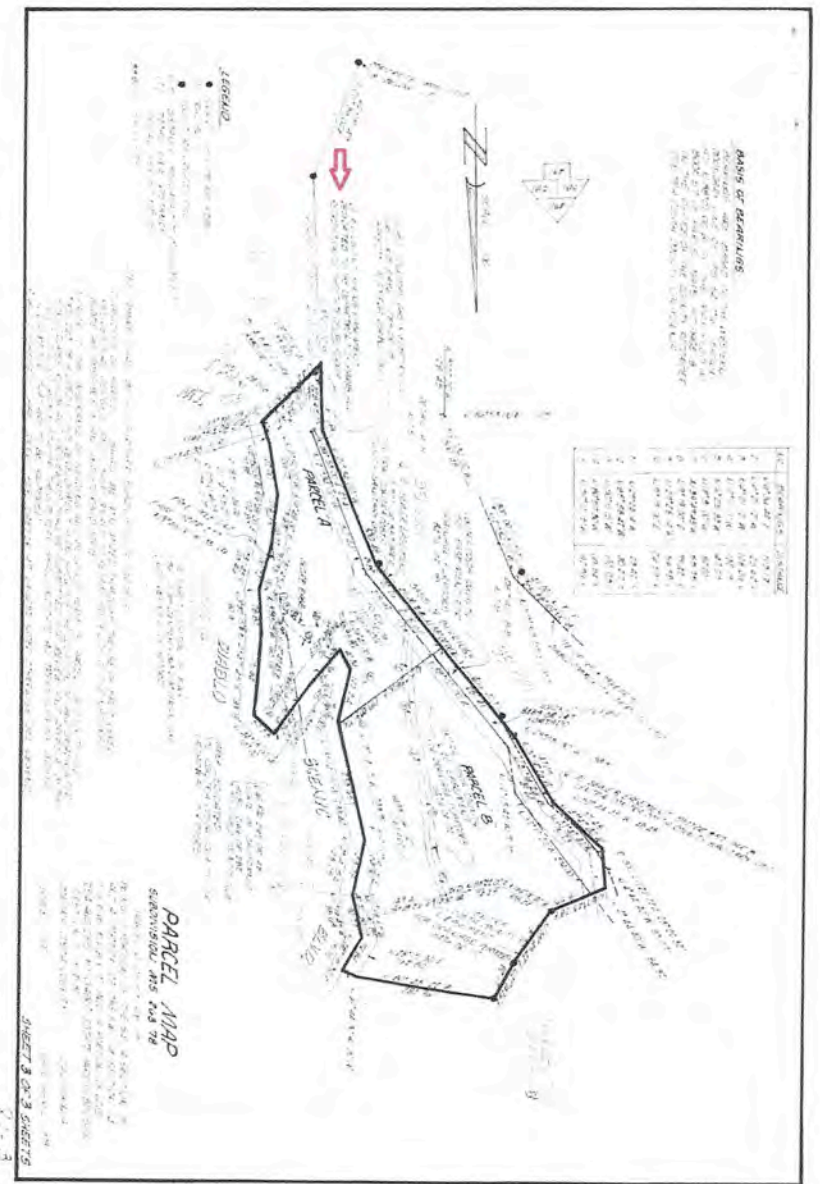
I have provided copies of the GoFundMe campaign as well.

I would appreciate both the written history and the GOFundMe campaign be included in the written minutes.

Thank you

Jeff Eorio, Alameda Diablo Resident of 44 years.





An **express dedication** in a recorded public document is a contract offer and acceptance of such an offer can be made in this case by the State of California or its designee or **by widespread and continuous use of the easement by the public in the manner intended!** In this situation, Diablo residents and the general public have accepted the easement through riding and hiking by all types of user groups for the past 44 years!

While someone could parse the word **riding** to imply horse but not bike or parse the word **public** to define Diablo residents as opposed to the general public, these are fine points easily handled by the courts. **The overriding consideration here is the acceptance by widespread and continuous public use of an expressly dedicated easement.**

But what about prior to 1979? The actual property line between the Bahrami/US Bank property and the vacant Wooten parcel is the **same exact location of the centerline of the original 1916 Mount Diablo Scenic Blvd Toll Road.** This roadway easement was recorded as 60-foot wide starting at the centerline of Alameda Diablo. The Mt. Diablo Scenic Blvd. Toll Road became Camino Tassajara and then later in the 1950's was renamed Alameda Diablo. From 1916 until the State Park was created in 1931, this road was the only Southern access to the upper parts of Mount Diablo. To be clear, 30 feet of original roadway easement was on the vacant Wooten parcel and 30 feet was on the Bahrami/US Bank parcel. Asphalt still remains under the gravel that exists on the easement to this day.

There are 4 solid metal posts still cemented in the ground spanning both the US Bank and the vacant Wooten parcels showing the location of the original road, before it was closed to vehicle traffic when Scenic was rerouted in the early 1930s. The posts and the braided wire rope remind all users that this location had never changed prior to 1979. The trail or pathway spanned two adjacent parcels until it was rededicated as a new easement in 1979.



To recap, from 1916 until 1931 there was a 60-foot-wide roadway spanning two parcels. From 1931 through 1979, the trail connector continued to be used by all user groups to access Mt. Diablo as marked by four solid metal posts. When this trail connector was threatened by development (Diablo Lakes) in the late 1970's, the County was asked to protect it.

The Diablo Hiking and Horseback Committee of the Diablo Property Owner's Association and the East Bay Area Trails Council representing 10 public agencies and 40 different public user groups both cited the need for this widely used trail access to Mt. Diablo to be protected in large part for safety reasons. They asked that it be included as part of the State Park Trails System and the County responded by creating the new dedicated easement in 1979. Again, this property has been in continual use since 1916 for public access to the then privately held Mt. Diablo and then, in 1931, to the newly created Mt. Diablo State Park.

As early users have stated, "That trail was just always there." Public easement protections have been in place at the same location for over 100 years. To say that it is now "private property" is just plain wrong and the current litigation (Contra Costa County Superior Court Case # C23-02578) is supported by over 50 current Diablo residents which will more than likely re-establish the easement for use by everyone for the next 100 years!

Provided by Jeff Eorio, Diabo resident for 44 years.

## 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” or “DCSD”) provides security and road maintenance services to the Diablo community pursuant to the Community Services District Law (Gov. Code, § 61000 *et seq.*); and

**WHEREAS**, the District is empowered by Government Code Section 61060(b) to adopt, by ordinance, and enforce rules and regulations for the administration, operation, and use and maintenance of the facilities and services listed in Government Code Section 61100, including the maintenance of streets, roads, and public rights-of-way (Gov. Code, § 61100(*l*)); and

**WHEREAS**, pursuant to Government Code Section 61103, a district that maintains roadways and public rights-of-way, such as the District, shall have certain powers that are otherwise granted to cities and counties by the Streets & Highways Code and Vehicle Code, which include the authority to manage stormwater and encroachments, as defined herein, and to remove encroachments and recover the costs associated with removal of encroachments (see Streets & Highways Code, §§ 964, 1480 – 1496); and

**WHEREAS**, the 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**, this ordinance was introduced at the District’s April 11, 2023 meeting and reintroduced with further amendments at its November 13, 2023 meeting; 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 BOARD OF DIRECTORS OF THE DIABLO COMMUNITY SERVICES 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: The Board of Directors finds the adoption of this Ordinance 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.

SECTION 4: If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This Board of Directors hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 5: 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 December 11, 2023 by the following vote:

AYES: Urbelis, Cox, Lorenz, Slavonia

NOES:

ABSTAIN:

ATTEST:

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Kathy Urbelis, Board President

## EXHIBIT A

### Chapter 6-6 ENCROACHMENT ORDINANCE

#### 6-6-1 Authority.

- a. The District provides security and road maintenance services to the Diablo community pursuant to the Community Services District Law (Gov. Code, § 61000 *et seq.*).
- b. The District is empowered by Government Code Section 61060(b) to adopt, by ordinance, and enforce rules and regulations for the administration, operation, and use and maintenance of the facilities and services listed in Government Code Section 61100, including the maintenance of streets, roads, and public rights-of-way (Gov. Code, § 61100(l)).
- c. Pursuant to Government Code Section 61103, a district that maintains roadways and public rights-of-way, such as the District, shall have certain powers that are otherwise granted to cities and counties by the Streets & Highways Code and Vehicle Code, which include the authority to manage stormwater and encroachments, as defined herein, and to remove encroachments and recover the costs associated with removal of encroachments (see Streets & Highways Code, §§ 964, 1480 –1496).

#### 6-6-2 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.

#### 6-6-3 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 within three feet of the DCSD-Maintained Street.

- 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.

#### **6-6-4 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 10 days. The 10-day period to remove the encroachment may be reduced to 5 days if, after notice, the property owner does not dispute the existence of the encroachment but still fails to remove it. 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.
- c. Notwithstanding any other provision of this ordinance to the contrary, the District hereby adopts the provisions of California Streets and Highways Code Sections 1480 through 1496 relating to the removal of encroachments, and the District's ability to impose penalties or forfeitures and recover the costs associated with removal of encroachments.

**DIABLO COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS  
SPECIAL MEETING MINUTES  
DIABLO COUNTRY CLUB RED HORSE TAVERN TOO  
DECEMBER 11, 2023, 5:30 p.m.**

**CALL TO ORDER:** President Kathy Urbelis called the meeting to order at 5:30 p.m.

**ROLL CALL:** President Urbelis called the roll as follows:

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

**Directors absent: Chartier**

**PUBLIC COMMENTS:** None

**CLOSED SESSION:**

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION pursuant to Government Code Section 54956.9(d)(1): *Steve and Kristin Buck v. Diablo Community Services District et al, Contra Costa County Superior Court Case No. C23-02825*

**RECONVENE IN OPEN SESSION:**

President Urbelis stated that there were no reportable actions.

**CALL OF NEXT MEETING/ADJOURNMENT:**

President Urbelis called the next meeting for Monday January 8, 2024. There being no further business, the meeting was adjourned the at 5:55 p.m.

Diablo Community Services District by

Kathy Torru, General Manager