



Livermore Area  
Recreation and Park District  
*An independent special district*

**LIVERMORE AREA RECREATION AND PARK DISTRICT**  
**REGULAR MEETING of the BOARD OF DIRECTORS**  
**MINUTES**

**WEDNESDAY, JANUARY 25, 2023**

5:00 P.M.

*NOTICE: Coronavirus COVID-19*

*In accordance with the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), as amended by Assembly Bill 361 (2021), members of the Livermore Area Recreation and Park District Board of Directors and staff participated in this meeting via teleconference (Zoom). In the interest of maintaining proper social distancing, members of the public also participated in this meeting electronically.*

**DIRECTORS PRESENT:** Directors Maryalice Faltings, Jan Palajac, Philip Pierpont, Vice Chair David Furst, Chair James Boswell,

**DIRECTORS ABSENT:** None

**STAFF MEMBERS PRESENT:** Mathew Fuzie, Fred Haldeman, Jeffrey Schneider, David Weisgerber, Julie Dreher, Linda VanBuskirk, Lynn Loucks, Michelle Kleman, Pamela Healy

**DISTRICT COUNSEL:** Rod Attebery and Thomas Terpstra, Jr. with Neumiller & Beardslee

**OTHERS PRESENT:** None

**1. CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE:**

Chair Boswell called the meeting to order at 5:00 p.m. All Directors were present via Zoom. Chair Boswell led the Pledge of Allegiance.

**2. PUBLIC COMMENT:** None.

**3. CONSENT ITEMS**

- 3.1** Resolution No. 2773 determining to conduct meetings of the LARPD Board of Directors using teleconferencing pursuant to Government Code 54953 as amended by AB 361;
- 3.2** Approval of the Minutes of the Regular Board Meeting of January 11, 2023;
- 3.3** Job Title Change: Natural Resources Ranger to Natural Resources Technician.

Director Furst asked for clarification on Item 3.3 because the agenda stated “Job Title Change”, but the staff report also included additional changes to the responsibilities as redlined in the job description. Discussed ensued and consensus was that the language presented in the staff report recommending approval of the change of title **and** responsibilities of the Natural Resources Technician would be considered.

**MOTION:**

Moved by Director Faltings, seconded by Director Pierpont, approved the Consent Items, by the following roll call vote:

AYES: *Directors Palajac, Furst, Pierpont, Faltings, and Chair Boswell (5)*  
NOES: *None (0)*  
ABSTENTIONS: *None (0)*  
ABSENT: *None (0)*

**4. PRESENTATION**

The Board received a presentation on Community Events Planned for 2023 by Community Outreach Supervisor (COS) David Weisgerber. The presentation highlighted LARPD events, co-sponsored events and other community events planned throughout the year.

- COS Weisgerber will look into LARPD’s plans for Earth Day this year and report back to the Board.

**5. DISCUSSION AND ACTION ITEMS**

**5.1 REVISIONS TO BOARD POLICY 5020 “BOARD MEETING AGENDA”**

General Manager (GM) Mathew Fuzie reported that this item stems out of the Board’s request at its meeting on January 11, 2023 to revise Board Policy 5020 to clarify ambiguity as to **when** a Board member’s requested item will be placed on an agenda, and **who** has final responsibility for ensuring that it is heard by all members of the Board.

This is the first reading of suggested revisions to the policy for discussion and word smithing. The policy will then be refined pursuant to Board direction and will come back for a second reading. This is designed to give the public an opportunity, when policy is going to be finalized, to be at the meeting. This also allows staff the expectation that the first reading will not always be perfect, and that staff will obtain direction from the board on policy changes.

The Board reviewed and discussed the substantive changes to paragraph 1 of Board Policy No. 5020 as follows:

1. The General Manager shall prepare an agenda for each regular and special meeting of the Board of Directors. Any Director may call the General Manager and request any item to be placed on the agenda no later than 5:00 P.M. one week prior to the meeting date. **The General Manager and the requesting Director shall discuss the timing of the item and when it will be placed on an agenda and who will have ownership of that item. The Chair and the General Manager must review and agree to the agenda** ~~has final review of the agenda prior to circulation.~~

**Director Questions/Comments:**

- o Do we want that much detail in the policy?

- Run-on sentence needs commas added: “The General Manager and the requesting Director shall discuss the timing of the item, **when it will be placed on an agenda, and who will have ownership of that item.**”
- At, “The Chair and the GM must review and **approve** the agenda prior to circulation. “ (Use “**approve**”, not just “agree”) I think **approve** is the right word.
- There is a little **red s** that got put in and shouldn't be there. (Discussion ensued all agreed that the **s** is struck. The sentence should read, “The Chair and the General Manager shall **review**. . . “ (**not reviews**).
- What if the Chair and the GM do not agree? Is there some provision here for handling that? We all know the assumption is the Chair has the final decision ultimately. **Maybe it ought to say that. Need to flesh this out.** Members agreed about adding something specific about **who has final approval to resolve any type of disagreement.** A suggestion was made to say, “The Chair and the General Manager **SHALL** (rather than *must*) review the agenda, **with the Chair having the final approval prior to circulation.**”

District Counsel Rod Attebery agreed with many of the changes suggested by the Board. As to ownership of that item, Mr. Attebery suggested using the word “**presentation**”- who will make the “**presentation**” of that item, because that is a concern. If there is a lengthy agenda item that staff may not have sufficient time to prepare on, we would be asking the director who is making the request of the item to assist in the presentation. He also agreed in terms of the Chair and GM review and **approve**. The word **approve** makes more sense. As to language if you should disagree: This would be handled under the Rules of Order you are guided by. The item would be placed on the agenda for consideration to add to the agenda, and a member could make a motion, and then there could be debate in Open Session over whether that item should be on or off the agenda.

No further Board questions/comments were received.

**DIRECTION:**

- GM Fuzie will work with Legal Counsel to incorporate the suggested revisions discussed by the Board above and bring the revised policy back to the Board for a second review.
- Chair Boswell suggested that in the future, should the Board want to word-smith documents that need to be modified, that Board members take those comments, write them up, and send those suggested revisions to the appropriate individual(s) so the points are not belabored during a meeting.

**5.2 REVISIONS TO BOARD POLICIES 5030 “BOARD MEETING PROCEDURE” AND 5070 “RULES OF ORDER FOR BOARD AND COMMITTEE MEETINGS”**

GM Fuzie reported that at its January 11, 2023 regular Board meeting, Director Palajac reported that the LARPD Foundation recently revised its Bylaws to reflect the way it conducts its meetings using Rosenberg’s Rules of Order instead of Robert’s Rules of Order, as Rosenberg’s Rules of Order is a much more simplified version. She recommended that the LARPD Board also consider making the change. If approved, revisions to Board Policy numbers 5030 “Board Meeting Procedure” and 5070 “Rules of Order for Board and Committee Meeting” would be necessary. District Counsel Rod Attebery concurred and recommended the Board consider making the change.

Staff recommended that the Board of Directors review and discuss the initial reading of revisions made to Board Policies 5030 “Board Meeting Procedure” and 5070 “Rules of Order for Board and Committee Meetings” to incorporate a change in the guiding principles from Robert’s Rules of Order to Rosenberg’s Rules of Order

**Director Questions/Comments:**

- o Director Palajac commented that she wanted the Board to take a look at the possibility of using Rosenberg’s Rules of Order instead of Robert’s Rules of Order, as it seems to be an easier, more simplified set of rules and that a lot of the smaller public agencies use Rosenberg’s instead of Robert’s. She expressed favor of moving to Rosenberg’s.
- o In favor of using Rosenberg’s after spending many an hour in sessions at conferences trying to be conversant with Robert’s. Favors a move to Rosenberg’s as it is simplified, easier to use, and will prove to be a smart thing for the Board to do.
- o Some board members commented that Attachment C “Robert’s Rules – Cheat Sheet (for comparison)” was confusing and was not written as gender-neutral. Members wondered if there were updated versions of the Rules of Order for review.
- o Although willing to follow District Counsel’s guidance on this regarding custom in the world of special districts and size of agency, requested to have a hard copy of both Rules of Order to refer to for comparison.
- o What is the impetus behind this change? Would like to review the value and advantages/disadvantages of both, including an example of specific items as the Board goes through the process so it may compare what is faster, simpler, cleaner using one versus another and what potential legal issues, if any, might come up in that process.

GM Fuzie recommend that since this is a Board preference question, it is difficult for staff to try to suggest the board move in either one direction. He recommended that the Board create an ad hoc committee for this matter and take it out of the hands of staff trying to guess what the Board wants.

District Counsel Rod Attebery commented that his firm, Neumiller & Beardslee (N&B), highly recommends that their public agency clients utilize Rosenberg’s. He described some of the nuances between the two Rules of Order. He reported that there are no recent amendments, that he is aware of, to either Robert’s or Rosenberg’s, but that the legislature has said generically that any context of any piece of legislation that represents gender-specific shall be considered gender-neutral. He added that the Rosenberg’s provided as Attachment A in the Board packet is the full version. (*The full version of Robert’s was not included as it was over 180 pages.*) One of the reasons N&B likes Rosenberg’s is because it is straightforward, and it deals with the things that you deal with as a small special district. By comparison, as a local entity, you never get to half or three-quarters of what is in Robert’s, not having a Parliamentary function such as the Legislature or Congress does.

No further Board questions/comments were received.

**DIRECTION:**

- Chair Boswell opted not to create an ad hoc committee. Instead, this item will be sent back to GM Fuzie who will work with District Counsel to further clarify the scope, what the impact of making the change from Robert's to Rosenberg's will be, and how this may impact our policies and procedures. The item will then be brought back to the table at a future Board meeting.
- Counsel's review of Board Policies 5030 and 5070 was suggested to ensure that revisions incorporate additional changes that might need to happen should the Board decide to switch from Robert's to Rosenberg's.

**6. INFORMATIONAL ITEMS (No Action Required)**

**6.1 GENERAL FINANCIAL UPDATE**

GM Fuzie reported that the District's financial situation continues to do well with its projections and budget models. With each budget process that we complete, projections and planning are becoming more in-depth. We are getting closer and closer to the goal of service-based budgeting where we know the percentage of service we want to be providing compared against what we actually provide.

Business Services Manager Jeffrey Schneider reported on financial results through December 2022, a copy of which will be distributed to the full Board after this meeting. The District's December results, while inflated by \$326k due to the timing of election fee expense (\$200k) and RDA tax timing (\$126k) versus budget, are extremely positive at \$586k in Net Operating Contribution (Revenues less Expenses) for the month of December (\$260k excluding the impact of election fee and RDA tax timing). December's results drove the District's year-to-date (YTD) results to a favorable Net Operating Contribution of \$1,245k, or \$919k excluding election fee and RDA tax timing.

The District continues to benefit from better-than-budgeted revenues from Operations, which are \$399k (12%) above budget YTD following an exceptional December result of \$103k (15%) above budget (Youth Sports, Senior Services, Recreation Classes, and Open Space are leading the way). Tax revenues are \$386k, or 5% above Budget YTD: a 2% surplus in property taxes (Budget was modestly conservative) accounts for \$139k; else, RDA-residential property tax income was \$126k in December while the Budget for this item of \$98k was expected in January; finally, Supplemental property taxes are extraordinarily high in December, at \$109k vs a budget of \$34k.

The Board of Directors had no comments or questions.  
Chair Boswell opened public comment. No comments were received. Chair Boswell closed the public comment period.

This was information only and no Board action was taken.

**7. COMMITTEE REPORTS**

- a) Director Pierpont reported that the January 17, 2023 Livermore Downtown, Inc. meeting was in the form of a retreat, much like this board will be doing in February. There is nothing to report.

Chair Boswell opened public comment. No comments were received. Chair Boswell closed the public comment period.

#### **8. MATTERS INITIATED/ANNOUNCEMENTS BY THE DIRECTORS**

- a) Director Palajac announced that she received a letter from a 9-year-old resident named Avery Kohn. Avery lives by Robertson Park and is requesting that the Board look at possibly adding monkey bars to the park because there really isn't anything for kids over the age of 8 to do. Director Palajac has asked that this item be placed on the Facilities Committee agenda at its January 31, 2023 meeting because she thinks it is important to recognize a young member of the community who has taken the time to send a letter to the Board of Directors.
- b) Director Palajac announced that she has been asked to be on the Trails Subcommittee of the Alameda County Agricultural Advisory Committee. She reported that the Vice Chair of that committee wrote a letter to Olivia Sanwong, who is the new East Bay Regional Park District representative, and the two new council members for Livermore regarding three different trails that they are interested in promoting. Those are the South Bay Aqueduct, the Brushy Peak to Los Vaqueros trail, and an urban rural loop by Las Positas College and Doolan Road.
- c) Director Palajac announced that Zone 7 Water Agency recently prepared and posted a Trails and Recreation Facilities in the Zone 7 Service Area map. If any of the other Directors are interested in it, she can send it to EA VanBuskirk for distribution or you can [click here to view it online trails-and-recreation-facilities-zone-7-service-area](#)
- d) Director Palajac announced that she attended a CSDA webinar "The Brown Act: Come for the Basics, Stay for the Updates" which is now offered as an On-Demand Webinar. The 2.5-hour long webinar included an overview of new teleconferencing rules in effect as of January 1 plus information on how the Brown Act interacts with social media. She warned that a Board member can violate the Brown Act easily on social media, so basically do not comment on or "like" anything that any other Director comments on, because it will constitute a serial meeting.

Mr. Attebery announced that his associate, Thomas Terpstra, will be presenting on this issue at either the first or second meeting of the LARPD Board in February. Their firm has prepared a memorandum for its public agency clients that walks through all the steps of the new legislation, AB 2449. Since Governor Newsome has announced that the state of emergency for the COVID-19 pandemic will end on February 28, 2023, LARPD's meetings will return to "in-person" beginning in March. When Mr. Terpstra presents on this topic, you will see the complications associated with it that Director Palajac has correctly pointed out. We will advise you that the use of AB 2449 will be the exception, not the general practice.

Chair Boswell opened public comment. No comments were received. Chair Boswell closed the public comment period.

#### **9. MATTERS INITIATED/ANNOUNCEMENTS BY THE GENERAL MANAGER**

GM Fuzie shared his screen to show a video of drone footage taken on January 20, 2023 while flying over Sycamore Grove Park, when the Department of Water Resources released 2,000 cubic feet per second of water out of the Del Valle Dam as part of the Emergency Action Plan. These overhead shots of Sycamore Grove Park demonstrate some of the flooding and impact on the park. <https://www.facebook.com/watch/?v=1538634149966342>

GM Fuzie praised all the LARPD staff for their response to this emergency. He stated staff has been doing a wonderful job of documenting and reporting out to the public, via social

media, on the continued releases from Lake Del Valle that have created the damage and safety hazards to the public; and staff continues to work very hard to keep the public safe, keep the parks safe from the public, and keep LARPD’s liability down.

Chair Boswell spoke on behalf of the Board of Directors to express its appreciation to the General Manager and staff teams for all the work that has been done during this hectic time.

Chair Boswell opened public comment. No comments were received. Chair Boswell closed the public comment period.

**10. OPEN SESSION DISCLOSURE REGARDING CLOSED SESSION ITEMS PURSUANT TO GOVERNMENT CODE SECTION 54957.7**

District Council Rod Attebery announced that the LARPD Board would be convening into Closed Session to discuss the item listed at 11.1 on the agenda. Open Session was adjourned at 6:07 p.m.

**11. CLOSED SESSION:**

**11.1 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**


Significant exposure to litigation pursuant to paragraphs (2) and (4) of subdivision (d) of Section 54956.9 of the California Government Code (1 Potential Case).

**12. RETURN TO OPEN SESSION: REPORT ON CLOSED SESSION – PURSUANT TO GOVERNMENT CODE SECTION 54957.1**

The Board came out of Closed Session at 7:01 p.m. and District Counsel Rod Attebery announced that no reportable action had been taken in Closed Session.

**13. ADJOURNMENT:** The meeting was adjourned at 7:01 p.m.

APPROVED,

  
\_\_\_\_\_  
James E. Boswell  
Chair, Board of Directors

ATTEST:

  
\_\_\_\_\_  
Mathew L. Fuzie  
General Manager and  
Ex-officio Clerk to the Board of Directors

/LVB