

NORTH MARIN WATER DISTRICT
MINUTES OF REGULAR MEETING
OF THE BOARD OF DIRECTORS
September 6, 2005

CALL TO ORDER

President Baker called the regular meeting of the Board of Directors of North Marin Water District to order at 7:30 p.m. at the District headquarters and the agenda was accepted as presented. Present were Directors Jack Baker, Rick Fraites, Steve Petterle, Dennis Rodoni and John Schoonover. Also present were General Manager Chris DeGabriele, Secretary Renee Roberts, Auditor-Controller David L. Bentley and Chief Engineer Drew McIntyre.

District employees Robert Clark (Facilities Maintenance Superintendent), Mike McMaster (Operations Superintendent), Sig Hansen from SPH Associates, Nadananda, Chair of Friends of the Eel River, Gordon Bennett representing Sierra Club Marin, Don McEnhill of the League of Women Voters, Pam Jean from the Sonoma County Water Agency and David Schonbrunn were in the audience.

CLOSED SESSION

President Baker reported that the Board met in Closed Session on August 30, 2005 to discuss the issue of the recent water release from Stafford Lake which had been the subject of an unfavorable article in the August 24, 2005 issue of the Novato Advance. He stated that the Board met with the Manager to learn the background for this release authorized by the Manager to accommodate a public event at the Stafford Lake Park. President Baker stated that the Board concluded that the Manager's decision was inappropriate and decided to respond to the Novato Advance via a letter from the Board President to the editor which will be in this week's Novato Advance. He stated that the Board further agreed to send a written notice to the Manager advising him that his decision was inappropriate not only because it was done without consultation with the Board but also because it sent the wrong message to District customers regarding water wastage.

MINUTES

On motion of Director Petterle, seconded by Director Baker and unanimously carried the Board approved the minutes from the previous meeting as mailed.

GENERAL MANAGER'S REPORT

District Tour

Mr. DeGabriele reported that on August 25, 2005 he provided a tour of District facilities, including the Laboratory and the Stafford Treatment Plant, to Dan Stebbins of the Novato Advance.

Collector 6

Mr. DeGabriele said that he and Mr. McIntyre met with Sonoma County Water Agency staff to discuss Collector 6 status, and that the agency is entering the start-up phase but the project is behind schedule, and it is anticipated to go on-line sometime this winter.

Day in the Capitol

Mr. DeGabriele advised the Board that August 29, 2005 he participated in the Day in the Capitol where he and others advocated for future state water bond funding.

Novato Leadership

Mr. DeGabriele reported that he provided a presentation to the Novato Leadership class about North Marin Water District and that there are approximately 15 people attending the classes, including Facilities Maintenance Superintendent Robert Clark.

Black Point Partnership

Mr. DeGabriele advised the Board that the financial analysis of StoneTree Golf Course is not completed and that all information needed to complete the evaluation has not been received by counsel, and that it was anticipated that this would have been done today. He stated that staff will be requesting the Board consider the Black Point Partnership recycled water service path forward at a special meeting on September 13, 2005.

OPEN TIME

President Baker asked if anyone in the audience or staff wished to bring up an item not on the agenda and the following items were discussed:

David Schonbrunn stated that he has served on Marin Municipal Water District's Citizen Advisory Committee that manages conservation. He stated that he reviewed the draft Revised Agreement of February 2005 and was unimpressed with conservation provision which called for meeting the California Urban Water Conservation Council Memorandum of Understanding Best Management Practices, saying it was not aggressive enough. He requested of the Board to include stronger conservation language in the agreement.

CONSENT CALENDAR

On the motion of Director Schoonover and seconded by Director Fraites and unanimously carried the following items were approved on the consent calendar:

Stafford Treatment Plant Rehabilitation Construction - Contract FCI Change Order No. 16

The Board authorized the General Manager to execute Change Order No. 16 to Frontier Contracting, Inc. in the amount of \$11,579.

Disbursements

The Board authorized payroll and accounts payable vouchers totaling \$659,457.51 and estimated overheaded payroll for September of \$263,000.

ACTION CALENDAR

APPROVE: RESOLUTION OF APPRECIATION – MARCIA DAVIS (1981 – 2005)

Mr. DeGabriele stated that Marcia Davis, Water Quality Supervisor, will be retiring October 16, 2005 after twenty-nine years of dedicated service to the District. He stated that the Resolution of Appreciation is to acknowledge Ms. Davis' contributions to the District.

On motion of Director Schoonover and seconded by Director Petterle, the Board unanimously approved Resolution 05-33 entitled, "Resolution of Appreciation to Marcia Davis."

APPROVE: RESOLUTION OF APPRECIATION – GERALD BUNDESEN (1973 – 2005)

Mr. DeGabriele stated that Gerald Bundesen, Maintenance Foreman, will also be retiring as of October 1, 2005 after thirty-two years of dedicated service. He stated that the Resolution of Appreciation is to acknowledge Mr. Bundesen's contributions to the District.

On motion of Director Fraites and seconded by Director Rodoni, the Board unanimously approved Resolution 05-34 entitled, "Resolution of Appreciation to Gerald Bundesen."

APPROVE: SPH ASSOCIATES RE STAFFORD TREATMENT PLANT REHABILITATION PROJECT – CONTRACT CHANGE ORDER NO. 11

Mr. McIntyre reviewed for the Board the background leading up to the current request by SPH Associates for approval of Change Order No. 11 to cover additional design engineering services during the construction phase of the Stafford Treatment Plant Rehabilitation Project. He reminded the Board that in April 2005, he advised the Board that the cost estimate for SPH Associates construction phase services included an additional contingency amount to cover possible higher SPH Associates expenditures during construction, and that if needed, a contract amendment in excess of \$10,000 would be brought back to the Board. He stated that in July 2005, Harris and Associates also requested an increase associated with the additional level of construction management effort to oversee Frontier Contracting. Mr. McIntyre stated that when the scope of work was developed, there were assumptions of the level of effort in responding to general construction tasks. He presented a graph illustrating SPH Associates costs to date which have been outside the control of SPH Associates, and he presented a second graph illustrating the costs

to date which are controlled by SPH Associates. He stated that the graph clearly shows that costs controlled by the construction contractor and not SPH Associates are approximately \$110,000 higher than the estimated task, and that task items controlled by SPH Associates are well within budget. He stated that based upon this analysis, it is his belief that SPH Associates' request is reasonable.

Mr. McIntyre introduced Sig Hansen of SPH Associates. Mr. Hansen stated that the original budget was based upon an experienced contractor being capable of managing the project, and that Frontier Contracting, Inc. was inexperienced. He said that numerous Requests for Information (RFI) for simple questions that had to be answered delayed the project considerably. He stated that SPH Associates projected the budget to last through August and that the project most likely will not be completed until December. Mr. Hansen said he felt the contractor was inexperienced and that his major concern was that the finished product be what was designed and what the District requires.

Director Schoonover asked Mr. Hansen how early it became apparent that the contractor was inexperienced. Mr. Hansen replied that within the first or second month of the project the contractor's inexperience became apparent.

Director Rodoni stated that recently the Construction Manager, Harris & Associates, requested a change order citing a similar situation with the contractor and Mr. Rodoni inquired of Mr. Hansen why the contractor was not going through Harris & Associates rather than through SPH Associates. Mr. Hansen replied that because these are design questions, the decisions rest with him. He stated that it was his opinion that Harris & Associates was doing a good job in managing the project.

Mr. McIntyre stated that poor management on the contractor's part has created a much larger level of effort on the part of SPH Associates to get the required result of the project.

Director Baker said that Michelle Leonard, of Harris & Associates, in her reports to the Board, had said that the quality of work of the contractor has been satisfactory, but the level of experience and inability to supply the labor needed to meet the construction schedule has been a continuing problem and that the questions asked by the contractor have been a drain on Harris & Associates and on SPH Associates.

Director Rodoni reminded the Board that at some point the contractor will come before the Board with a different opinion about the events and at some point the Board will need to reconcile

the situation. Director Rodoni stated that if it should be proven that some of the responsibility for the delay rests on SPH Associates, that the change order would be renegotiated.

On motion of Director Rodoni and seconded by Director Schoonover the Board unanimously authorized the General Manager to execute Change Order No. 11 to SPH Associates in the amount of \$80,000 on a time and expense basis.

CONSIDER: LETTER OF SUPPORT FOR WEST MARIN MOSQUITO CONTROL COMMITTEE

Mr. DeGabriele stated that at the last meeting, the West Marin Mosquito Control Committee (Committee) made a presentation to the Board and requested that the District support their recommended protocol for controlling mosquitoes in West Marin. He stated that he asked District Laboratory staff to evaluate chemicals that were being used and that the Laboratory staff concluded that the less chemicals entering the water supply the better and supported the Committee's recommended protocol. Mr. DeGabriele stated that he also inquired of the Sonoma County Water Agency fishery biologist if there is concern of mosquito fish competing with salmonids and that the Agency's biologist said there is a difference of opinion on the use of mosquito fish. Mr. DeGabriele stated that in the District's letter of support, a request is made for continued consultation with fishery biologists over the use of mosquito fish and their effect on salmonids.

Director Rodoni stated that he supported the letter and reported that the Marin-Sonoma Mosquito and Vector District used the Committee's protocol in successfully eliminating 98% of sand mosquitoes in Bolinas Lagoon.

Director Fraites stated he was concerned about the Water Agency's position on mosquito fish and that it has not been established that mosquito fish do not pose a threat to salmonids, and that he would like to keep language opposing the use of mosquito fish on the record.

On motion of Director Rodoni and seconded by Director Schoonover the Board unanimously approved sending letter of support to West Marin Mosquito Control Committee.

APPROVE: MEMBERSHIP IN TOMALES BAY WATERSHED COUNCIL

Mr. DeGabriele stated that the Tomales Bay Watershed Council (TBWC) was formed in 1999 for the purpose of creating and helping to facilitate a management plan to preserve and protect water and land resources for sustainable uses by agriculture, aquaculture, business, environmental, recreation and residential interests and is comprised of citizens of local organizations, business and government agencies. He stated that last spring, TBWC invited the water utilities to join in the development of a Proposition 50 Planning Grant proposal to prepare an Integrated Coastal Watershed Management Plan for West Marin communities, and that the group is

expected to hear in October if grant money will be awarded. Mr. DeGabriele stated that joining the TBWC was a good idea since the Council is comprised of parties that the District does business with and that attending regular meetings can help the District's relationships with those other watershed stakeholders. He said that membership will assist the District when implementation project grant proposals are developed for future grant funding. He stated that the only commitment is to attend six meetings a year and participate in one of five committees and will take approximately two to four hours of staff time per month.

Director Baker said that although he agreed with the purpose of the Committee and its importance to our West Marin customers, he is concerned about staff's time commitment.

On motion of Director Petterle and seconded by Director Schoonover the Board unanimously approved membership in the Tomales Bay Watershed Council.

COMMENT LETTER TO NOTICE OF COMPLETION AND NOTICE OF PUBLIC HEARING – DRAFT EIR FOR LAWSON'S LANDING MASTER PLAN

Mr. McIntyre reviewed for the Board the progress over the years on Lawson's Landing's attempt to bring their existing facilities into compliance with Marin County environmental codes and land use policies. He stated that in 2000 the District responded to a negative declaration prepared by Lawson's Landing, and in 2002, responded to the Notice of Preparation for the Environmental Impact Report. He stated that the District's responses were to encourage the development of a consolidated and expandable community wide wastewater service system for Oceana Marin, Dillon Beach Village, Lawson's Dillon Beach Resort and Lawson's Landing. He stated that the Draft Environmental Impact Report (DEIR) is now available and the District has another opportunity for review and comment. He stated that this most recent DEIR does not address compliance with Dillon Beach Community Plan or the District's advocacy of a community wide expandable wastewater disposal service. Mr. McIntyre said that of the six alternative analyses considered in the Draft EIR, the Reduced Project Alternative was the environmentally superior alternative because it reduces the number of facilities constructed on-site and that recreational activities on-site would be reduced by one-third and that the disposal system is in a non-sand dune location. He stated that the response letter states that the plan does not address the community wide wastewater disposal system and that the District's letter makes it clear that the District provides wastewater service, not water service, in Oceana Marin.

Director Fraites stated that he would like the language of the letter be stronger and demand, rather than consider, that the Draft EIR conform to the community plan requirement for a community wide wastewater disposal system.

After discussion by the Board, it was agreed that the following sentence would be added to the end of the fourth paragraph: "On several occasions NMWD has been requested to expand its wastewater service to properties in the Village and we believe provisions for a consolidated community sewer system, pursuant to the Community Plan Policy, should be addressed at this time."

On motion by Director Rodoni and seconded by Director Petterle the Board unanimously approved staff's comment letter to the Notice of Completion and Notice of Public Hearing – Draft EIR for Lawson's Landing Master Plan as amended.

INFORMATION ITEMS:

NOVATO SANITARY DISTRICT - REPEATER ANTENNA INSTALLATION AT CHERRY HILL TANKS SITE

Mr. McIntyre updated the Board on Novato Sanitary District's (NSD) efforts over the last two years to relocate a repeater antenna for their SCADA Alarm Network from the District's Half Moon Tank to the District's Cherry Hill Tank site. He stated that an antenna site is being proposed on the apex of the District's property. He stated that in 2002 the NSD considered the Cherry Hill Tank site for the antenna and at that time there was discussion that the Board would not make a determination until after a Use Permit was obtained by NSD. He stated that as part of the process of obtaining the Use Permit, the NSD is required to substantiate to the City of Novato that they are in communication with the property owner regarding the proposed project. He stated that Steve Krautheim, NSD's Construction Supervisor, sent a letter requesting that the District notify the City that the District is working with NSD. Mr. McIntyre stated that he advised Mr. Krautheim that the District can send the letter to the City, however no action can be taken until a Use Permit is obtained by NSD.

2005 CATHODIC PROTECTION MASTER PLAN

Mr. Clark provided the Board with an update of the Cathodic Protection Master Plan stating that the plan has enabled staff to track and monitor the continued protection of the District's metallic underground structures. He stated that the reconstruction of the aqueduct rectifier beds at three locations have been completed which has increased the overall protection for the aqueduct. He stated that the master plan is a "living document" that will be reviewed each year after completing budget projects and after continued investigations, additional projects will be identified to be included in the master plan.

POTTER VALLEY PROJECT AND ITS IMPORTANCE TO CONTINUED OPERATION OF THE RUSSIAN RIVER WATER SUPPLY SYSTEM

Mr. DeGabriele stated that at the special meeting in July 2005, John Nelson provided the Board with an overview of the proposed Restructured Agreement for Water Supply and new Impairment Memorandum of Understanding (MOU). He stated that since that time the District has received communications from several interested parties concerning the language in the Restructured Agreement enabling Sonoma County Water Agency (SCWA) to acquire or pay for continued operation of the Potter Valley Project provided it is authorized by the Water Advisory Committee. He stated that Mr. Nelson advised that answers to questions regarding the acquisition or payment need not be known now, but at the time when the actual acquisition is contemplated. Mr. DeGabriele reviewed the history of the diversion of the Eel River and the Potter Valley Project. He stated that this is a very complex situation and a complex system noting that it involves an inter-basin transfer from one river system to another, that both river systems have endangered and threatened salmonids and there are many and varied interested parties i.e., the Federal Energy Regulatory Commission, PG&E, NOAA Fisheries, various water users, environmental and tribal groups.

Gordon Bennett, representing Sierra Club Marin, stated that he is urging the Board to omit from Restructured Agreement the option for the SCWA to acquire or pay for continued operation of the PVP, and that if the PVP proves to not be a major issue then put that option back in the agreement.

David Schonbrunn stated the language in the Restructured Agreement was vague and it was not clear what the benefit is to contractors and who would receive the water deliveries. He stated that it should be clear that "delivery" does not include instream flow.

Mr. DeGabriele stated that the Agreement clearly states that water deliveries would be to the contractors and that Sonoma County Water Agency must make the deliveries and maintain the instream flow to the Russian River pursuant to State Resources Control Board requirements.

Nadananda, Chair of Friends of the Eel River spoke at length about the history of the Potter Valley Project and the Eel River diversion and its effect on the salmonid population in the Eel River. She advocated for the elimination of any diversion out of the Eel River into the Russian and that the call for purchasing and operating the Potter Valley Project be deleted from the Restructured Agreement.

Pam Jean, Sonoma County Water Agency, stated that the Water Agency is not in negotiation or having discussions with PG&E at the present time regarding the acquisition of the Potter Valley Project.

Director Rodoni stated that the Water Advisory Committee should look into having all contractors agree on the language, and he said he felt that this language is as important as the Restructured Agreement even though it is only a part of it.

Director Fraites stated that he would like a formal presentation on this issue to get more information before making a decision on the proposed language in the Restructured Agreement.

Director Petterle stated that he agreed with Director Fraites and would like more information in writing from both sides of this issue.

Director Rodoni inquired if the agreement is signed as it is written, whether the Sonoma County Water Agency is prohibited from purchasing the project if the contractors don't agree. Mr. DeGabriele responded that the Agency can purchase it without the contractor's authority, but the Agency could not obligate the contractors to pay for it.

Director Schoonover stated that he, too, would like more unbiased, documented information.

After much discussion, the Board requested more information be provided so that they can be fully educated on the complexities of this issue before taking action on the Restructured Agreement.

NORTH BAY WATERSHED ASSOCIATION MEETING (SEPTEMBER 2, 2005)

Mr. DeGabriele informed the Board that at the North Bay Watershed Association (NBWA) meeting, updates were provided for the Proposition 50 Grant proposal efforts, the conference scheduled for next spring, that the Bay Institute was authorized to become an associate member of the NBWA, and that the guest speaker, Bruce Herbold of the Environmental Protection Agency, spoke about the collapse of the fisheries in the Delta.

MISCELLANEOUS:

The Board received the following miscellaneous information: Outstanding Invoices, Review of Scheduled Agenda Items, Bel Marin Keys Self Storage Project Landscaping, Wildlife and Fisheries Advisory Committee Invitation, Letter from Consumer Re Stafford Lake Water Release.

The Board also received the following news articles: Letters (2) to Novato Advance Editor (8/31/05), Protecting Our Resource (8/31/05), SR May Penalize Major Water Users (8/31/05), Crucial Bay-Delta Water Program Floundering in Red Tape (8/26/05), Gallons Gone Down the Creek (8/24/05), Round 2: Machines Enter Ludwigia Assault (8/23/05), Feds Cut Chinook Protection (8/23/05), Water Meter for Sale by Bolinas Community Land Trust (8/18/05), A Safe West Nile Weapon (8/18/05), Novato Water – It's Worth Saving! (8/17/05).

ADJOURNMENT

President Baker adjourned the meeting at 9:45 p.m.

Submitted by

Renee Roberts
District Secretary