

**NORTH MARIN WATER DISTRICT
MINUTES OF REGULAR MEETING
OF THE BOARD OF DIRECTORS
September 19, 2006**

CALL TO ORDER

President Schoonover 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 Bentley and Chief Engineer Drew McIntyre.

District employee Mike McMaster (Operations Superintendent), Robert Clark (Facilities Maintenance Superintendent), Doug Moore (Construction Superintendent) and Ed Grundstrom were in the audience.

CLOSED SESSION

President Schoonover immediately adjourned the Board into closed session for Conference with Legal Counsel – Anticipated Litigation. Significant exposure to litigation pursuant to Government Code subdivision (b) of Section 54956.9 (one case re Lagunitas Creek Water Right License 4324B).

OPEN SESSION

Upon returning to regular session at 7:45 p.m., President Schoonover stated that during the closed session the Board had discussed the issues and no reportable action had been taken.

MINUTES

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

GENERAL MANAGER'S REPORT

Employee Housing Program

Mr. DeGabriele reported that District employee, Corey Reed, expressed interest in participating in the District employee housing program as Mr. Reed found a desirable home in Novato for which to put in an offer. He stated that Mr. Reed has requested that the threshold of the District contribution be increased to \$300,000 and that this request will come before the Board at the next meeting.

Novato Advance

The General Manager advised that he spoke with the new editor at the Novato Advance, Rob Mitchell, about misinformation published in the opinion piece by Mr. Grundstrom, particularly the statement that the District has \$50 million in reserves.

Novato Sanitary District

Mr. DeGabriele stated that the Novato Sanitary District has a new website and that it is very well done.

Construction Industry Night

Mr. DeGabriele advised the Board that he will attend the Marin Builders Association, Construction Industry Night where Chuck Bennett will be named "Man of the Year."

Irrigation Tech Center

He reported that next Wednesday, September 27, he will be meeting with staff from Indian Valley College regarding their Irrigation Tech Center that may be starting up soon.

Customer Outreach Focus Groups

Mr. DeGabriele reported that last week, District staff participated in five focus groups facilitated by Ogilvy Public Relations regarding the proposed tier rate. He said that the organizations participating were the Novato Leadership, Garden Club, Chamber of Commerce, Soroptomists and the Novato Fire Protection District. He said the summary will be presented at the next meeting.

Employee Meeting

Mr. DeGabriele advised that an employee meeting will be held tomorrow where he will announce the change in the Consumers Price Index to 3.8% and that pursuant to the employee agreement, that percentage will be realized in employees' salaries beginning October 1.

OPEN TIME

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

Ed Grundstrom, 2034 Hatch Road, addressed the Board on the subject of the proposed Tier Rate. He requested the Board to rethink the proposed rate structure and stated that the reduction in water usage will decrease revenue. He stated that the decrease in revenue would, therefore, force rates to be raised in the future. He said the District should be working on water supply and

how to meet future demands. He also stated that he did not intend to mislead the public with his published statement that the District had \$50 million in reserves. Mr. Grundstrom thanked the Board and left the meeting at 8:00 p.m.

Treatment Plant Staffing

Mr. McMaster reported that two new employees will be coming on board at the Treatment Plant: an Assistant Treatment/Distribution Operator and a Treatment Operator. He also advised the Board that Steve Peterson has tendered his resignation and that another candidate who was recently interviewed will be offered a position.

MONTHLY PROGRESS REPORT

Mr. DeGabriele provided the monthly Progress Report for August and reported that water production for both Novato and West Marin were on par compared to last year, and he noted that Stafford Treatment Plant started up and is producing water. He stated that the disposal field in Oceana Marin is performing well and that pond freeboard levels are in good shape. Mr. DeGabriele advised that the water conservation update still shows ultra low flow toilet rebate totals, but that those numbers will diminish as the District is now rebating high efficiency toilets only. Mr. Bentley reported on the investments and stated that the District has \$13 million, not \$50 million, in reserves.

CONSENT CALENDAR

At the request of Chief Engineer McIntyre, Item No. 6, Virginia Grove Subdivision, was pulled from the Consent Calendar for minor comments.

On the motion of Director Fraites, seconded by Director Baker and unanimously carried the following items were approved on the Consent Calendar.

MAJAUSKAS RANCH

Mr. McIntyre provided the history of the Majauskas' request for a livestock water service agreement and stated that a temporary water service agreement was approved in August 2000 and an extension of the temporary water services was approved to allow the applicant more time to obtain County approval on their proposed single family residence in August 2003. That extension expired in August 2006 and the Majauskases were advised that if land use approval for their project had not been granted, they would need to obtain a livestock water service agreement to normalize the existing service. He stated that staff has contacted the County and received confirmation that the Majauskases have an active application into the County of Marin for the project although the application has been deemed incomplete pending additional information. Mr. McIntyre stated that water usage records from past years indicate a water usage history averaging six EDUs. Although

staff has denied the applicant's request for another 3-year temporary water service agreement, a time extension until December 29, 2006 has been granted to the applicant.

The Board approved Resolution 06-41 entitled, "Authorization of Execution of Livestock Water Service Agreement with Ray and Pam Majauskas."

CONTRACT FOR DRAFTING SERVICES – ABEREGG

The Board approved a new agreement for Drafting Services for Michael Aberegg with a not-to-exceed limit of \$20,000. Mr. Aberegg has provided miscellaneous drafting services to the District since 2000 on an as-needed basis to help staff meet workload demands.

LAGUNITAS CREEK STREAMGAGING STATION COST SHARING

The Board approved entering into an agreement with the US Geological Survey and to continue funding District's share in the amount of \$6,535 for operating the Lagunitas Creek streamgaging station operated and maintained by the US Geological Survey. The National Park Service and Marin Municipal Water District also share in the cost.

POLICY NO. 18, ENERGY POLICY & POLICY NO. 21, JUDICIAL REVIEW LIMITATION

The Board approved Policy No. 18, Energy Policy and Policy No. 21 Judicial Review Limitation.

DISBURSEMENTS

The Board approved payroll and accounts payable vouchers totaling \$1,230,538.09.

WATER SERVICE AGREEMENT - VIRGINIA GROVE SUBDIVISION

Mr. McIntyre stated that this project subdivides an existing 0.65 acre parcel into 8 lots for single family homes. He stated that the existing 5/8" service will be killed and abandoned and that required new Zone 1 water facilities include 35 feet of 8-inch PVC main, 270 feet of 6-inch PVC main, 90 feet of 1-inch copper, one residential fire hydrant and eight 1-inch meters. Mr. McIntyre stated that this Water Service Agreement for an affordable housing project is eligible under the new District Regulation 1.c.5 wherein payment of initial charges can be deferred until the meters are set or a period up to two years, whichever comes first. He said that District legal counsel recommended two minor changes to the Water Service Agreement: that the deferral of initial charges would be for two years from date of agreement or the date of issuance of a Certificate of Occupancy from the city or county, whichever occurs first; and a clarification that meters would be set all at once.

On motion of Director Baker and seconded by Director Rodoni, the Board unanimously approved Resolution 06-42 entitled, "Authorization of Execution of Water Service Facilities Construction Agreement with Hart Marin."

ACTION CALENDAR

STAFFORD TREATMENT PLANT PROJECT NOTICE OF COMPLETION

Mr. McIntyre stated that Frontier Contracting, Inc. has, from a contractual standpoint, fulfilled its obligation and the Stafford Treatment Plant Rehabilitation Project is complete. He said that a Notice of Completion can be filed with the County of Marin, and that during a 30-day period subsequent to said filing, any potential claims can be made. He reported that due to the project falling approximately 7 months behind schedule, liquidated damages have been charged to Frontier and, conversely, the contractor has made various claims to the District due to costs that they believe were outside their control. He reported that the District and Frontier's surety, Liberty Mutual, have been working to resolve the dispute by developing a global settlement for contract closeout terms. He presented a draft of the closeout settlement terms, and noted that the agreement returns \$425,000 from retention to the District, thereby reducing the total estimated project cost to approximately \$14,700,000, which is the amount in the original budget approved December 2003.

On motion of Director Petterle and seconded by Director Baker, the Board unanimously approved the following: authorized the General Manager to execute and file a Notice of Completion for the Stafford Treatment Plant Rehabilitation Project; authorized a final payment to Frontier's Surety in the amount of \$433,876; and authorized approval of the contract close-out settlement terms subject to review and modification and approval by District legal counsel.

Director Baker complimented staff for bringing this matter to closure in such a tidy fashion.

PROMOTING LEGISLATION FOR CALPERS TO OFFER HIGH DEDUCTIBLE HEALTH PLAN OPTION

Mr. Bentley stated that health insurance premiums offered by CalPERS will increase 10.7% effective January 1, 2007 and that staff has asked CalPERS to consider offering a high deductible health plan option similar to what Kaiser offers (outside of the CalPERS program). He stated that CalPERS was not interested at this time and that staff is seeking Board support for staff to work with legal counsel on crafting legislation that would require CalPERS to offer a high deductible health plan option. Mr. Bentley said that he felt that other ACWA agencies would support this option. He stated that estimated legal fees would be approximately \$500 per month for the next twelve months and once legislative language is drafted, the cost would cease.

Director Schoonover said that he would be in favor of this as an option, not a requirement. Director Petterle stated that CalPERS' response makes sense in that the high deductible may

discourage people from seeking health care maintenance and suggested that ACWA take the initiative to propose this plan.

Mr. Bentley responded that ACWA needs an agency to come up with the proposal to begin the process.

Director Petterle said that he didn't think this was a pressing issue. Director Fraites agreed and said that lobbyists would be needed to work the legislators and that ACWA should be the one to do this.

Mr. Bentley said that ACWA would need to be convinced that there is enough support. He stated that District legal counsel feels that the District would get support from other agencies and that the only way to find out is to go forward.

On motion of Director Baker and seconded by Director Fraites the Board unanimously approved to authorize staff to work with legal counsel to craft a bill to require CalPERS to offer a high-deductible health plan option.

PROMOTING LEGISLATION RESCINDING RETIREMENT BENEFITS FOR CONVICTED FELONY EMBEZZLERS

Mr. Bentley reported that the District received a bill for retiree medical benefits from CalPERS for the former District employee who admitted to felony embezzlement and when CalPERS was advised that the District would not pay for this benefit, CalPERS responded that the Public Employees' Medical and Hospital Care Act had no provision to deny health benefits to a retiree collecting pension benefits, that it is a contractual right. He stated that District legal counsel has been working on this subject for some time and has so far been unable to come up with a reasonable legislative approach. Mr. Bentley stated that he feels the public would be in favor of this and that Jared Huffman, candidate for State Assembly, said he would carry the legislation.

Director Petterle stated that although he felt it was a good idea, he would not support this as he felt it is not the District's fight and that he would like to see ACWA take the lead and write the legislation. He said that the District has recouped its losses from the embezzlement and would not want to spend approximately \$10,000 on this.

Director Fraites inquired if the District would have to provide funding to draft the legislation or can ACWA's legislative committee take it on.

Mr. Bentley stated that the District would have to write the legislation before ACWA would lobby for it. He said that costs would accumulate most in the research phase.

Mr. DeGabriele explained that the process is that the District would make a proposal for legislation to ACWA with drafted language, then ACWA committee carries it forward, and if it decides to endorse it, then finds a legislator to carry it.

There was further discussion among the Board.

Director Rodoni suggested that staff check with Mr. Maddow to see if there are other clients that may be interested in co-sponsoring a bill.

Director Baker said that since the District has been injured recently that it seems logical that the District take the initiative.

Mr. Bentley stated that the District can stop the process at any time if the costs exceed what is deemed to be reasonable.

On motion of Director Baker and seconded by Director Fraites, the Board authorized staff to continue working with legal counsel to craft a bill to deny retirement benefits to any public employee convicted of a felony embezzlement by the following vote:

Ayes: Directors Baker, Fraites, Schoonover

Noes: Directors Petterle, Rodoni

Abstain: None

Absent: None

FORWARD PROPOSED REVISION TO THE DISTRICT'S ON-CALL AND STAND-BY DUTY TO THE EMPLOYEE UNION FOR REVIEW

Mr. Clark stated that the On-Call and Stand-By Duty policy needs to be updated to be consistent for after hours coverage from all departments, update and document all compensation levels and that the Board is being asked to authorize staff to forward said draft policy to the employees' union for their review.

Director Fraites asked if there had been any discussion with the crew and if Mr. Clark knew how the union would receive this policy. Mr. Clark responded that there has been little discussion with the crew at this point. He said that in reviewing the policy it has been determined that the District does not need stand-by staff every weekend, but that it is necessary for 3-day weekends.

Director Rodoni queried that if the time and amounts are being increased, why there is no financial impact noted in the memo.

Mr. Bentley responded that there would be a financial impact and Mr. Clark stated that the policy is presented for approval to send to SEIU only. He stated that staff is still considering the new formula to calculate compensation and will present the financial impact to the Board after review by SEIU.

Director Rodoni asked if the District was negotiating out of contract and had staff compared on-call compensation with other districts.

Mr. Clarke responded that staff surveyed other local agencies and the District is below their compensation.

Director Rodoni stated that he felt it was premature for the Board to approve sending the policy to SEIU without knowing the financial impact.

Mr. DeGabriele stated that the policy will be presented to the Board again in a cleaner version and with the financial impact included.

FORWARD PROPOSED POLICY REGARDING THE HIRING OF IMMEDIATE FAMILY MEMBERS TO THE EMPLOYEE UNION FOR REVIEW

Mr. DeGabriele presented the revised Policy Regarding the Hiring of Immediate Family Members that broadens the existing policy from minors for temporary positions to all immediate family members both for regular and temporary positions. He stated that Doug Moore suggested that in Item 2 the employee's immediate family member *not work* in the same department as the employee.

On motion of Director Petterle and seconded by Director Rodoni, the Board unanimously approved sending the District Policy Regarding the Hiring of Immediate Family Members to the employee union for review.

INFORMATION ITEMS

SAFETY UPDATE FOR FY 2005/06 ACTIVITIES

Mr. Clark provided an update on safety activities for the Fiscal Year 2005/06 and stated that safety efforts focused on increased awareness of employee involvement in daily activities that included asbestos cement pipe handling and precautions, working in traffic, working in hot weather and heat and stress related illnesses, lifting, bending and twisting, coaching, and disaster preparedness. He stated that specific employee training included CPR-First Aid, Automated External Defibrillator (AED), forklift operation, confined space, excavation and shoring, and hauling and handling of hazardous materials. Mr. Clark also reported that department Safety Binders were

updated, the Boot Policy was revised and an internal audit of the safety program based on OSHA compliance is ongoing.

BACA VISTA BOIL WATER ORDER

Mr. DeGabriele advised the Board that on September 11, 2006, a city contractor broke a sewer main and a water main in close proximity to each other, which caused water from the main and sewage to be mixed in the same trench. He said that because the water main was valved off with no pressure in the presence of raw sewage, there was the possibility of contamination entering the water system, and a Boil Water Order was issued consistent with NMWD's Emergency Operations Plan and the California Department of Health Services requirements. He said that staff hand delivered the Boil Water Order to the affected eleven customers on Baca Vista and that water samples were collected and tested and that results were negative for the presence of coliforms. Mr. DeGabriele said that once two consecutive clean samples were collected and tested negative for coliforms, the Boil Water Order was lifted on September 13.

SCWA MEMORANDUM – RECENT WATER SUPPLY APPROVALS

Mr. DeGabriele reported that he received a memorandum from Sonoma County Water Agency stating that Collector 6 has authorization from the State Water Resources Control Board as a conditional point of diversion and the Agency has received authorization from the Department of Health Services to operate Collector 6. He said that pre-production monitoring indicates that the water produced by Collector 6 is of very high quality.

NORTH BAY WATERSHED ASSOCIATION MEETING 9/8/06

Mr. DeGabriele provided the agenda for the North Bay Watershed Association Meeting of September 8, 2006 and said he had a chance to report on the Sonoma Marin Saving Water Partnership and is hoping to bring the water contractors together and to move forward with that proposed program.

MISCELLANEOUS

The Board received the following news articles: Tastes Like Stafford (9/13), From Quarry to Community (9/5), County Makes Stand for Sustainability (9/5), General Plan OK Unlikely Until October (9/1), Stream Flow Policy Needed as Water Diversions Add Up (9/1).

ADJOURNMENT

President Schoonover adjourned the meeting at 8:47 p.m.

Submitted by

Renee Roberts
District Secretary