

**NORTH MARIN WATER DISTRICT
MINUTES OF REGULAR MEETING
OF THE BOARD OF DIRECTORS
September 20, 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) and Susan Kessler (Administrative Assistant), Patricia Menadier, Randy Poole of Sonoma County Water Agency, David Keller and Nadananda of Friends of the Eel River and Gordon Bennett of Sierra Club Marin were in the audience.

MINUTES

On motion of Director Rodoni, seconded by Director Fraites and unanimously carried the Board approved the minutes from the September 6, 2005 meeting as mailed.

On motion of Director Schoonover, seconded by Director Fraites the minutes from the special meeting of September 13, 2005 were approved as amended by the following vote:

Ayes: Directors Baker, Fraites, Schoonover

Noes: None

Absent: None

Abstain: Directors Rodoni, Petterle

GENERAL MANAGER'S REPORT

MOU Training

Mr. DeGabriele reported that District department heads and supervisors attended a training conducted by Joe Wiley on September 15, 2005 on the amended Memorandum of Understanding between the District and SEIU.

Novato Sanitary District Open House

Mr. DeGabriele reported that he attended the open house at the Novato Sanitary District at which time the Administration building was dedicated to Chuck Joseph, former Novato Sanitary District General Manager.

Tomales Bay Watershed Committee

Mr. DeGabriele said that he and Operations Superintendent, Mike McMaster attended the Tomales Bay Watershed Committee meeting today.

Lost Time

Mr. DeGabriele reported to the Board that District mechanic, Joe Kauth, fell and broke his wrist and it is uncertain how long he will be absent and that this is considered a lost time injury.

Stolen Vehicle

Mr. DeGabriele also reported that a District 1993 Ford 150 4 X 4 vehicle was stolen from the corporation yard sometime Monday evening. He stated that the Auditor-Controller had received a call from the State Department of Fish and Game advising that District materials were found discarded near the Sonoma County line on Highway 101. He said that the theft was reported to the Novato Police Department and that it is not known how the thief entered the yard, but that that person now has possession of the automatic gate opener. He told the Board that the gates will now be padlocked after 3:30 p.m. as an extra precaution. He stated he will keep the Board apprised of any results to the investigation.

OPEN TIME

President Baker asked if anyone in the audience or staff wished to bring up an item not on the agenda and there was no response.

MONTHLY PROGRESS REPORT

Mr. DeGabriele stated that water production for August is up in Novato and that production in West Marin is down considerably from one year ago, but that a system leak that occurred in August 2004 contributed to that apparent decline.

He stated that Stafford Treatment Plant has not produced water and it is unlikely that there will be production in September, but the problem with the filters has been identified and it is hoped that the plant will be up and running in October.

Mr. DeGabriele reported that in Oceana Marin the discharge was off in August, but is back on now and safe storage levels are expected entering winter months.

He noted that there was a lost time injury in July and the District has incurred another lost-time injury (mechanic broken wrist) in September.

Mr. Bentley reviewed the Auditor-Controller's Monthly Report of Investments noting that the District did not meet its self-imposed standard to keep 20% of the District's investment portfolio liquid and that at the end of August only 12% of the portfolio was liquid. He stated that this was due to the State Revolving Fund loan fund that was not reimbursed until September 8, 2005 and there is a lag between time when the claim is made and the time of reimbursement and that this will occur for the next 2 months.

CONSENT CALENDAR

Item 5 (Water Agreement Amendment – Gambonini Trust) and Item 6 (Out-of-State Travel to AWWA Conference) were removed from the Consent Calendar for further discussion.

On motion of Director Fraites, seconded by Director Petterle and unanimously carried Item 7 (Disbursements) was approved on the Consent Calendar:

Water Agreement Amendment – Gambonini Trust (4809 and 4811 Redwood Hwy S.)

This item was removed from the Consent Calendar for additional discussion.

Mr. McIntyre distributed a graph to the Board illustrating water use of the subject property and provided background on the request by the applicant to amend the current Water Service Agreement that was executed in 1992 to provide water service with four EDUs to two parcels due to contamination of the well on the property. He said that the original agreement was for water service outside the District territory and that there is a statement in the agreement that stipulates that the Water Service Agreement will become null and void should either parcel be sold or subdivided. He stated that Ms. Menadier, acting on behalf of the Gambonini Trust, has requested that the agreement be amended so that one parcel can be sold. He stated that staff has been working with District legal counsel in reviewing the request and modifying the agreement to keep in place the important aspects of the agreement, i.e. that there would be no change in the entitlement or water usage (4 EDUs), that if there is further expansion or subdivision that the agreement would become null and void and that should the City of Petaluma extend their water service making permanent water service available that the applicant would be required to connect to that service. He said that staff took the opportunity to add language regarding fire protection system, cross connection control and landscaping limitations and water conservation requirements per our current regulations.

Director Rodoni stated he felt that this subject is a policy issue for the Board and that staff should not make a decision on outside water use and that the District should not be serving water to this area while the Sonoma County Water Agency temporary impairment condition is in effect. He

also inquired why this proposed agreement is not considered expansion of service when a new customer is being added. Director Rodoni requested that this item be revisited at the next Board meeting and that the Board be apprised of future outside water service requests in a timely manner so that the subject can be fully studied and discussed prior to consideration of an agreement. Director Rodoni stated that he has been approached by other property owners that have been denied water service because they are outside the District territory and that he did not see a difference between their request and this request.

Director Baker agreed that the Board should review existing services to the north and requested that an item be placed on a future agenda to discuss property owners who have expressed a desire to receive water service outside the District territory. He suggested that the Board review outside users every one to two years.

Mr. DeGabriele said that staff will provide information to the Board regarding outside water service earlier in the agreement process in the future. He stated that the Gambonini Trust property has been served by the District since 1993 when one meter was installed to serve two parcels. The water service calculated and paid for at that time totaled four EDUs for one single family detached residence on each parcel and for minor incidental agricultural use, principally stock watering as the parcels are used for cattle grazing. The proposed amended agreement requires a new meter but there will be no additional EDUs.

Director Petterle inquired what the lot size is and why four EDUs were allotted.

Mr. McIntyre responded that the front lot is 98 acres and the rear lot is 56 acres and that four EDUs were allotted in 1993 pursuant to the General Manager's description. He stated that the water use graph shows that the most recent spike of water usage in 2004 was due to a water line break and that the water usage has been below the entitlement and that other than enabling the change of ownership for one parcel with another meter and adding water conservation requirements, there are no other changes in the agreement. Mr. McIntyre confirmed that the applicant paid four FRC charges for four EDUs.

Director Schoonover inquired why were the words "sole ownership" of the two parcels important to have in the agreement. Mr. McIntyre responded that he believes "sole ownership" was used to define the applicant and recognized the request to tie into our facility due to the contamination of the well.

Mr. DeGabriele stated that the difference between this request and recent requests to provide new water service to customers along the Hwy 101 corridor is that there is no increase in water demand whereas requests for new service would add new demand. He stated that the

additional meter's purpose is to separate the billing between the two parcels. He stated that Director Rodoni advised him that LAFCo has the authority to approve outside surplus water use and Mr. DeGabriele stated that LAFCo reviewed the request for service to the properties in 1992 and that the new amended agreement would satisfy the LAFCo requirement. He stated that he has contacted the Executive Officer of LAFCo to confirm that the District is in compliance with current statutes and that he will apprise the Board after receiving a return call.

Director Rodoni stated that he felt there is no control over what a new owner would develop on the property and that the District is not properly noticed by Sonoma County for any development or land use issues and that he would like to hear from LAFCo before considering approval of the amended agreement.

Ms. Menadier stated that she is the third generation owner of the property and that in order to afford to keep ownership in the property, it is necessary to sell one parcel. She stated that she and her family have been very frugal with the water and know what the Water Service Agreement restrictions are.

Director Baker asked if delaying the decision would impact her situation and she stated that she has a buyer and is awaiting approval before proceeding with the sale.

Director Rodoni suggested asking legal counsel that should this property be subdivided again and water usage not increased, is the District obligated to serve another person with another meter if this amendment is approved and that the District needs to know the policy implications.

On motion of Director Schoonover, seconded by Director Fraites and the Board unanimously voted to delay consideration of approval of the Water Agreement Amendment – Gambonini Trust until October 4, 2005.

Ms. Menadier thanked the Board and left the meeting.

OUT OF STATE TRAVEL TO ATTEND AWWA CONFERENCE

This item was removed from the Consent Calendar for further discussion.

Director Schoonover inquired if Stacie Goodpaster, Chemist II, will be using her own personal vehicle or a District vehicle and if using her own vehicle would she receive reimbursement for mileage.

Mr. DeGabriele said that Ms. Goodpaster has not yet decided but that if she were to use her personal vehicle she would be reimbursed for mileage.

On motion of Director Petterle, seconded by Director Rodoni and unanimously carried the Board approved the out-of-state travel to the AWWA Conference in Reno, Nevada for Drew

McIntyre and Carmela Chandrasekera from the Engineering Department, and Stacie Goodpaster from the Laboratory.

Disbursements

The Board authorized payroll and accounts payable vouchers totaling \$1,206,391.21.

ACTION CALENDAR

RESTRUCTURED AGREEMENT FOR WATER SUPPLY

Mr. DeGabriele reviewed the participation of staff and Board over the past four years in meetings and workshops leading up to the currently proposed Restructured Agreement and that staff has kept the Board apprised of information going into this agreement along with steps taken by the Board over the years to provide information to the public. He stated that at the July 26, 2005 workshop to review the Restructured Agreement, Director Fraites requested further discussion of the Eel River diversion through the Potter Valley Project and that at the Board meeting of September 6, the Board heard from the environmental community who are opposed to Section 2.4 of the Restructured Agreement that addresses the Sonoma County Water Agency's option of acquiring the Potter Valley Project from PG&E should that be a necessity. Mr. DeGabriele stated that at that time the Board requested additional information that is now provided in this agenda package including reports from Sonoma County Water Agency and publications supplied by the Friends of the Eel River and several emails from other interested environmental groups and individuals who are advocating that the District not approve the Restructured Agreement with language that gives the Agency the option to acquire the Potter Valley Project.

Mr. DeGabriele stated that Director Rodoni had asked him if the District had previously considered the Potter Valley Project issue and Mr. DeGabriele stated that in a letter to John Nelson dated February 2002 the District felt at that time that Section 2.4 containing the operative language on Potter Valley Project acquisition did not need to be revised.

Mr. DeGabriele said that the Restructured Agreement has beneficial elements in it that are carried over from the Impairment Memorandum of Understanding and has additional benefits especially toward funding for environmental enhancement projects. He stated that the new agreement also memorializes the Local Supply, Recycled Water and Tier 2 Conservation Funding Program and the Urban Water Management Plan preparation. He said that staff has kept the Board apprised throughout the process, that other contractors have approved the agreement as it is and that there is an now an eleventh hour request from Friends of the Eel River to strike certain portions of the agreement. He stated that Director Rodoni has advocated that the agreement for the acquisition of the Potter Valley Project be a unanimous decision of the Water Advisory Committee,

and that the negotiation to change that portion of the agreement would delay the process even further.

President Baker asked if there were comments from the audience at this time.

Nadananda, Chair of the Friends of the Eel River, reviewed the environmental impact the Potter Valley Project has had on the Eel River and the fish population. She stated that Section 2.4 of the Restructured Agreement sends a message to PG&E that the Sonoma County Water Agency is interested in acquiring the Potter Valley Project and inquired why the Agency would want to acquire an antiquated facility that would not benefit the water supply needs of the contractors' customers.

David Keller received confirmation that all communications from Friends of the Eel River supporters had been received by the District and he then distributed copies of a letter from the law firm Shute, Mihaly & Weinberger to the Board. He stated that he was concerned with the cost of acquiring the Potter Valley Project and that ratepayers need to know what this cost will be. He stated that the Sonoma County Water Agency has said that the water is used by entities upstream from the water contractors and does not supply water to any of the prime contractors and that the Agency does not intend on buying it. He said that there is a huge obligation to the ratepayers who do not benefit from the water supply. Mr. Keller reported on the history of the PG&E's Potter Valley Project and discussed costs associated with improving fish ladders and screens, and creating a mandated fish passage. He stated that if the Sonoma County Water Agency acquires the Potter Valley Project, the contractors are obligated to pay for all environmental mitigation and repairs. Mr. Keller stated that it is up to the Water Advisory Committee to decide and that it was important for the remaining contractors to change the agreement and strike out all reference to the Agency acquiring the Potter Valley Project.

Gordon Bennett stated that he was speaking as a District ratepayer and said that District staff are good managers who maintain tight control over expenses and inquired why the District would care to obligate its customers without knowing the benefits and costs of the project.

Randy Poole, General Manager of Sonoma County Water Agency, stated that the Agency is not in a position to acquire or start negotiations with PG&E to acquire the project and that he does not see a change by PG&E and how they are operating the facility. He stated that Sonoma County Water Agency has funded environmental enhancement projects and has lobbied in the interest of coastal salmon. He stated that the Restructured Agreement addresses water conservation, recycled water and other water management plans.

Director Rodoni stated that his main responsibility is to fiscally protect the District ratepayers and that he felt that the agreement can still be changed to include language in Section 2.4 stipulating a unanimous decision by the Water Advisory Committee. He stated that North Marin Water District's Board has changed since the issue was discussed thirty months ago.

Mr. DeGabriele stated that since 1992 the water supply agreement has been in negotiations to secure Russian River supply for the future of the District's customers and further delays will not be of benefit to them.

Director Fraites stated that the Potter Valley Project is onerous and has a huge impact on the Eel River.

There was discussion among the Board members on the appropriate language for the motion. Director Fraites stated that he would propose language that would strike Section 2.4 of the Restructured Agreement, however Director Rodoni suggested the word "unanimous" be added after the word "prior" in the first sentence in Section 2.4.

Director Baker said that he was disappointed after all the years spent on negotiating the Restructured Agreement that there is a possibility that the approval of the agreement being delayed further.

Mr. DeGabriele stated that he will report to the Water Advisory Committee that North Marin Water District's Board will adopt the Restructured Agreement only if language calling for a unanimous vote in Section 2.4 is included or that Section 2.4 be struck from the Agreement. He stated that not approving the Restructured Agreement will create more delay and renewed negotiations.

Director Fraites stated that there should be more discussion of the implications of the Potter Valley Project.

After considering multiple options, on motion of Director Fraites and seconded by Director Rodoni and carried by the following vote the Board approved that if either of the following amendments to the Restructured Agreement were met and said agreement came back to the Board, the Board would consider approval of the Restructured Agreement:

1. The first sentence in Section 2.4 of the Restructured Agreement shall read, "All or part of the Potter Valley Project may be acquired upon a determination by the Board of Directors of the Agency that such acquisition is necessary to insure the Agency's continued ability to make the water deliveries authorized by this Agreement, provided, however, that no part nor all of the Potter Valley Project shall be acquired without the prior unanimous approval of the Water Advisory Committee;" or

2. All language referring to the acquisition of the Potter Valley Project be deleted from said agreement.

Ayes: Directors Fraitas, Rodoni, Petterle

Noes: Directors Baker, Schoonover

Absent: None

Abstain: None

Nadananda and Messrs. Keller, Bennett and Poole left the meeting.

APPROVE: MOU REGARDING TEMPORARY IMPAIRMENT

Mr. DeGabriele stated that at the Board workshop of July 26, 2005 the Temporary Impairment MOU was reviewed and that the Impairment MOU expires on September 30, 2005. He stated that the new impairment MOU uses an adaptive management approach to address possible summer impairment conditions over the next three years. He stated that many provisions of the MOU that expires on September 30 will also expire without the execution of the Restructured Agreement. He stated that the current MOU will need to be changed to add back in the provisions that were transferred to the Restructured Agreement that was not approved at tonight's meeting.

On motion of Director Schoonover and seconded by Director Petterle the Board unanimously approved Resolution 05-35 entitled, "Resolution of the Board of Directors of North Marin Water District Authorizing the Execution of Memorandum of Understanding Regarding Water Transmission System Capacity Allocation During Temporary Impairment" and authorize the General Manager to file the Notice of Exemption.

Director Rodoni left the meeting at 9:50 and returned at 9:53.

HUMAN RESOURCES FUNCTION ALTERNATIVES

Mr. Bentley stated that at the Board of Directors Planning Workshop, staff was directed to consider alternatives to the Auditor-Controller serving as Human Resources (HR) Manager and that staff has developed seven common HR functions and that the Auditor-Controller would continue to have principal responsibility for Collective Bargaining, Classification/Compensation, and Employee Benefits Administration. He stated that the consensus among the General Manager and Division Chiefs that the following components could be served by alternative support to assist the Auditor-Controller: Employee Relations, Recruitment/Selection, Employee Development and Performance Management/Discipline. Three options were explored to accomplish this goal: request HR services/assistance from another public agency, hire a private HR consulting service or utilize internal staff. Mr. Bentley stated that staff decided to request the Board to authorize staff to explore using an existing District employee to assume the HR functions as stated above.

On motion of Director Petterle, seconded by Director Schoonover and unanimously carried, the Board authorized staff to explore the potential of using an existing member of staff to assume the Human Resources functions indicated above and return to the Board with findings and a recommended path forward.

INFORMATION ITEMS:

SERVICE CONNECTION CREDIT

Mr. DeGabriele stated that Director Rodoni asked for explanation on the District's practice for new development occurring on land which has previously been served by the District to fully credit the current meter charge, reimbursement fund charge and facilities reserve charge (FRC) for existing service. He stated that legal counsel found no guidance in state statutes and that staff reviewed Public Utilities Commission General Order 96-B and found the order is silent on application or credit for existing service where expansion occurs on properties already served. He said that staff addressed Director Rodoni's concern of equity to fully crediting an applicant, and an analysis was done by the Auditor-Controller comparing the FRC charge in 1985 versus current FRC charge. He said that that formula shows that a FRC charge in 1985 was \$985 and after using the Auditor-Controller's formula based on investment income on District treasury plus water bond payments, the credit value in 2005 is \$5100.

Director Rodoni thanked staff for investigating this topic and that the Auditor-Controller's formula helps to explain how the calculation is made and he stated that it seems odd to get current value on something that is thirty to forty years old.

Mr. DeGabriele said that more research on this subject can be conducted with other agencies, however, this is not staff's highest priority.

ENERGY WORKSHOP UPDATE

Mr. Clark reported that he attended an energy workshop sponsored by the California Department of Water Resources and the Santa Clara Valley Water District and participated in discussion on methods being employed throughout the state to help reduce energy usage. He stated that the District has participated in energy conservation through time-of-use of pumping for several pump stations, installing high efficient motors for replacement and new installation, converting to more efficient lighting in District offices and have designed high efficiency devices into the Stafford Treatment plant. He said that he is investigating solar energy in certain areas at the District facilities and that he submitted a Flex Your Power nomination describing the District's energy saving efforts stating that the District has saved approximately 10% since 2003.

PACIFIC INSTITUTE REPORT – CALIFORNIA WATER 2030: AN EFFICIENT FUTURE

Mr. DeGabriele reported that most recent Executive Summary for the Pacific Institute's report gives another perspective on future California water requirements. He stated that the demand projections are based on water efficiencies that Pacific Institute previously identified in the report, "Waste Not Want Not - The Potential for Urban Water Conservation in California."

POTTER VALLEY PROJECT INFORMATION

Mr. DeGabriele provided information on the Potter Valley Project to the Board.

MISCELLANEOUS:

The Board received the following miscellaneous information: Outstanding Invoices, Water Conservation Quarterly Report, Hurricane Katrina Relief Fund, Information: Mark Buckwalter Small Claim, Conservation Incentive Rate Expenditure Plan, Letter from Customer Re Using Visa to Pay Bill, It's All About Water!

The Board also received the following news articles Down the Creek (9/14/05), Hint of Accord Over Salamander (9/9/05), Release Regrettable (9/7/05), County Oks Adobe Creek Deal (9/6/05).

President Baker adjourned the meeting at 10:12 p.m.

Submitted by

Renee Roberts
District Secretary