

**NORTH MARIN WATER DISTRICT
MINUTES OF REGULAR MEETING
OF THE BOARD OF DIRECTORS
September 1, 2009**

CALL TO ORDER

President Rodoni 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, Steve Petterle, Rick Fraites and John Schoonover. Also present were General Manager Chris DeGabriele, Acting Secretary Katie Young, Auditor-Controller David Bentley and Chief Engineer Drew McIntyre.

Leonard Charles (Leonard Charles and Associates) and District employees Robert Clark (Operations/Maintenance Superintendent) and Doug Moore (Construction/Maintenance Superintendent) were in the audience.

MINUTES

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

GENERAL MANAGER'S REPORT

Mr. DeGabriele stated that Katie Young was filling in at tonight's meeting as Acting Secretary for Renee Roberts.

OPEN TIME

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

STAFF / DIRECTORS' REPORTS

President Rodoni asked if staff or Directors wished to bring up an item not on the agenda and the following items were discussed:

Employee Assisted Housing

Mr. Bentley stated that there were two employees interested in the employee assisted housing loans, the Water Quality Supervisor and an Account/Credit Clerk II. He stated that they were making offers on homes and if either one is successful, they will likely be back at the next meeting to discuss the employer assisted housing loan program. Director Schoonover asked where they were residing now and Mr. Bentley stated outside of the Novato area.

Sonoma Russian River Tour

Director Baker reported that he and Director Fraites attended a tour of the Russian River, including Lake Sonoma's Warm Spring dam and fish hatchery, the rubber dam, and Collector 6, all facilitated by the Sonoma County Water Agency. Director Baker stated that it was very helpful, informative and a great opportunity to see how the areas operate.

Director Fraites stated that the tour was enlightening and that he was impressed with the Russian River system and fishery operation. He stated that the engineering of building Collector 6 was incredible.

CONSENT CALENDAR

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

FUNDING AGREEMENT FOR CONSTRUCTION FUNDS FOR STAFFORD TREATMENT PLANT BACKFLOW METER & CHECK VALVE

The Board approved submittal of a financial assistance application to the California Department of Public Health for American Recovery and Reinvestment Act funds for the Stafford Treatment Backflow Meter and Check Valve project and adopted a resolution to authorize the General Manager to act as the District's Authorized Representative. To complete the application, the Board must authorize the General Manager to execute a Funding Agreement and other supporting documents with the California Department of Public Health.

The Board approved Resolution 09-29 entitled, "Funding Agreement Authorization Resolution."

OUT-OF-STATE TRAVEL FOR CHEMIST

The Board authorized Stacie Goodpaster to travel out of state to attend the AWWA Fall conference.

RESPONSE TO CUSTOMER LETTER RE WATER USE ACCURACY

The Board authorized the Board President to sign a letter commending a customer for water conserving efforts.

SB 113 OMNIBUS BILL SUPPORT LETTER

Section 36 of the Omnibus Bill contains the change that was requested by the Senate Local Government Committee to add to SB 113. That section allows local governments to publish

summaries of their water conservation ordinances, in lieu of full text, as long as the full text is available to the public at the District's office.

The Board authorized President Rodoni to execute a letter to the Governor requesting he sign the Omnibus Bill.

ACTION CALENDAR

APPROVE: CONSERVATION INCENTIVE RATE RESERVE FUNDS

Mr. Bentley stated that staff is recommending that the District use the Conservation Incentive Rate Reserves in amounts equal to water conservation expenditures. He stated that the District started accruing money in the accounts when the District created the Conservation Incentive Rate in 2004 for Novato and 2005 for West Marin. Mr. Bentley stated that the money that is derived is set aside in a reserve and by resolution this can be used only for water conservation programs. Mr. Bentley advised the Board that at the end of June, Novato had \$460,000 in its Conservation Incentive Rate reserves and West Marin had \$33,000, totaling approximately \$500,000.

Director Rodoni asked if the District is proposing the whole amount be utilized for water conservation this year. Mr. Bentley responded that as the District spends money, commencing September 1, any conservation money used by the District would relieve that reserve. Director Rodoni further questioned if the District would exhaust the reserve in the next budget year. Mr. Bentley stated that the Novato reserve may be exhausted, but the West Marin reserve will likely last in perpetuity.

On the motion of Director Baker and seconded by Director Petterle, the Board unanimously voted to authorize Staff to commence relieving the Conservation Incentive Rate Reserve in an amount equal to Water Conservation Program expenditures in both Novato and West Marin.

APPROVE: REPLACE 1990 & 1994 JOHN DEERE BACKHOE

Mr. Moore stated that the purchase of a new backhoe was included in the current FY 09/10 budget. He said that Papé Machinery has been awarded the State of California pricing contract, and advised that through the state pricing, the District will receive 39% off the list price. He stated that the total cost of the backhoe would be \$110,000. Mr. Moore also stated that Papé Machinery has offered the District \$15,000 for trade-in for both the used 1990 and 1994 John Deere Backhoes.

Director Baker asked how many backhoes the District had. Mr. Moore responded that the District had three total, but one of the backhoes is not currently working. Director Baker asked if the District were to get rid of two backhoes, then how many would they have with the purchase of this one. Mr. Moore advised the Board there would be two.

Director Baker asked if the District had started looking ahead for rental companies because Big 4 Rentals is no longer in business and Novato Rental has some selections but not the same inventory. Mr. Moore stated that he has a contact with a Hertz representative and he currently uses United Rentals and a new company called Rental Solutions in Santa Rosa.

On the motion of Director Schoonover and seconded by Director Petterle, the Board unanimously voted to approve the purchase of a new John Deere backhoe from Papé Machinery for \$101,517 as well as approved disposition of the (trade-in) 1990 and 1994 Backhoes to Papé Machinery for \$15,000.

CONSIDER: REQUEST FOR ADDITIONAL BILL ADJUSTMENT

Mr. Bentley stated that a customer in Bel Marin Keyes received an extraordinarily high bill. He advised the Board that the District applied a bill adjustment reducing their \$808 bill to \$266. He stated that the customer thought that the adjustment was still high and that they would like a full adjustment so that they would be billed the equivalent water use from last year. Mr. Bentley stated that the water was used and it is staff's recommendation to adjust the customer's bill in accordance with the District's bill adjustment policy.

Director Schoonover asked if the District thought the high bill was due to the hydraulic boat lift on the property. Mr. Bentley stated that there have been problems in the past but the customer couldn't recall using the lift and that they had no leak at the time. He stated that a hose could have been left on without the consumer noticing.

On the motion of Director Baker, seconded by Director Fraites, the Board unanimously voted that the customer receive the normal credit amount authorized under the Bill Adjustment Policy consistent with that rendered to all customers.

CONSIDER: IRWD DIRECTOR PEER SWAN'S NOMINATION AS ACWA VICE-PRESIDENT

Mr. DeGabriele stated that the leadership of Association of California Water Agencies (ACWA) cycles between southern and northern California. Peer Swan from, Irvine Ranch Water District (IRWD), is a long time ACWA member who is very active. He stated that he thinks Peer Swan would do a good job; that this position is a huge commitment-- two years as Vice President and two years as President. Mr. DeGabriele stated that he has also received a request from Randy Record, who is on the Board of Eastern Municipal Water District and who has an interest in agricultural issues rather than urban. Mr. DeGabriele advised the Board that IRWD is a progressive urban water supplier and is in a very tight-knit community. He stated that IRWD has done a lot of progressive things with recycled water and the District's idea of the financial dashboard is

something the District got from Irvine Ranch Water District.

Director Rodoni asked if Supervisor Kelley had moved on. Mr. DeGabriele stated that Director Kelley would be ACWA President beginning 2010.

Director Fraites asked if Peer Swan supports the governor's plan for water increases across the state. Mr. DeGabriele stated that he did not know if he was in support but that there is a lot of things to debate in the future regarding water exports through the Delta and it would not likely come to resolution in the next four years.

On the motion of Director Schoonover and seconded by Director Baker, the Board unanimously voted that the Board approve Resolution 09-30 entitled, "Resolution of the Board of Directors of North Marin Water District Placing in Nomination Peer Swan as Vice President of the Association of California Water Agencies."

**PUBLIC HEARING: REVISED STAFFORD TREATMENT PLANT SOLAR ENERGY PROJECT-
CONSIDER ADOPTION OF MITIGATED NEGATIVE DECLARATION AND APPROVAL OF
PROJECT**

Mr. McIntyre stated that the last time the Board saw the Administrative Draft of the Initial Study for the revised Stafford Treatment Plant Solar Energy Project was back in July. He stated that the District filed the document with the County of Marin and the State Clearing House at the end of July, had a 30-day public review period and received one letter from the State Clearing House saying that there were no responses received on the project. He advised the Board that the total cost of the project is estimated at \$4M and that the District needs additional state and/or federal grants or low interest loans for the project to be affordable. Mr. McIntyre stated that besides proceeding with approval of the environmental document, another step is to authorize staff to prepare a financing plan for Board approval prior to moving forward with the project design and construction.

Mr. McIntyre introduced Leonard Charles who described the project and the standard mitigation measures to address construction-related environmental impacts. He provided photo simulations of views from different perspectives at Indian Valley Golf Course and said the solar panels will not interfere with golfer's site lines.

President Rodoni opened the Public Hearing at 8:10 p.m. and hearing no comment closed the Public Hearing.

Director Schoonover asked if all of the panels were on stanchions and a flat surface so that they were protected from the wind. Mr. Charles stated that all of the stanchions were in concrete and well-engineered.

Director Petterle asked if there was consideration of installing landscaping on the golf course. Mr. Charles answered that it was not discussed but that landscaping can be added if the District decides to do so. Director Petterle suggested planting trees to interrupt the line of sight in key spots where the panels would be visible.

Director Petterle asked what the timeline for approving the project subject to financing would be. Mr. McIntyre responded that the District would file the Notice of Determination and that the timeline is 30 days for public comment. He stated that at some point in time if the District didn't move forward someone could argue that the document was outdated.

Director Petterle asked what triggers the filing of Notice of Determination, if it was the adoption of the Mitigated Negative Declaration or the approval of the project. Mr. Charles stated that it was the approval of the project and the approval of the environmental document.

Director Petterle asked, by approving the project, is the District liable for the project if there is no financing. Mr. Charles responded that the District would not be liable; that the District is just approving the project. Director Rodoni asked if the project was not approved would it be more difficult to get funding. Mr. McIntyre replied yes.

On the motion of Director Schoonover and seconded by Director Fraites, the Board unanimously approved Resolution 09-31 entitled, "Resolution of the Board of Directors of the North Marin Water District authorizing the adoption of a Mitigated Negative Declaration for the Revised Stafford Water Treatment Plant Solar Energy Project, making findings pursuant to the California Environmental Quality Act, and directing the Filing of a Notice of Determination." Under the same motion and vote the Board approved the project including Mitigation Monitoring and Reporting Program, as well as, authorized the General Manager to file the Notice of Determination with the Marin County Clerk, and also approved and authorized staff to prepare a financing plan for the Board approval prior to moving forward with project design and construction.

INFORMATION ITEMS

NORTH BAY WATER REUSE AUTHORITY UPDATE

Mr. McIntyre presented an update to the Board regarding North Bay Water Reuse Authority (NBWRA) and stated that in May he verbally advised the Board that NBWRA had issued their Draft Environmental Impact Report/Statement for the North Bay Restoration and Reuse Project which

includes the District's proposed local Recycled Water Projects and the joint ventures with Novato Sanitary District and Las Gallinas Valley Sanitary District. He stated that NBWRA originally anticipated a 45-day public review period but it was extended at the request of the public to 60 days, closing on July 20th. Mr. McIntyre stated that Environmental Sciences Associates (ESA) has finalized the Administrative Draft Environmental Impact Report/Statement. He advised the Board that the document is a response to the comments received from the public and includes the actual comment letters. He stated that the copies of the reports were given to all NBWRA members as well as their legal counsel. Mr. McIntyre stated that there will be a conference call between Mr. DeGabriele, ESA and himself, as well as the District's legal counsel, to review any comments the legal counsel may have recognizing that the Board will be making findings on the local projects and adopting and certifying the local project as part of CEQA. He stated that the next step in the process, after ESA finishes review with all the member and supporting agencies, would be to give the document to the U.S. Bureau of Reclamation as a final document. Mr. McIntyre said that after the Bureau has a 30 day notice period, they will file a Record of Decision and that will finalize the federal process of approving the document. He stated that after the federal process, the document would go back to Sonoma County Water Agency to certify the environmental document from the CEQA standpoint, and barring any unforeseen difficulties, the document would go back to the individual Boards to take action on their individual projects. Mr. McIntyre stated that he anticipated North Marin Water District would take action on the North Marin and Novato Sanitary District projects and the District Board would take another set of actions on the joint projects with Las Gallinas Valley Sanitary District.

Mr. McIntyre advised the Board that the District has submitted an application with the State Water Resources Control Board for a low interest rate loan for the first phase expansion of recycled water to Valley Memorial Park. He stated that one of the documents they need before continuing on with consideration of the application is a final Environmental Document.

Mr. McIntyre stated that with the completion of the environmental clearance phase, the terms of the current Memorandum of Understanding (MOU) between Las Gallinas, Novato Sanitary and North Marin are fulfilled. He stated that he is working on drafting a new MOU with those parties for future NBWRA participation.

WAC/TAC MEETING – AUGUST 31, 2009

Mr. DeGabriele informed the Board that he had attended the Water Advisory Committee/Technical Advisory Committee (WAC/TAC) meeting on Monday, August 31st with Director Rodoni. He stated that after the WAC agenda was published, attorneys representing

Rohnert Park and Sonoma expressed concern about the WAC entering into closed session. Mr. DeGabriele stated that these attorneys advised their committee members to not go into closed session. He stated that he, Krishna Kumar and Bob Maddow, District legal counsel, decided that they would discuss the issues in open session. He also stated that Jake Mackenzie made a statement to the WAC and the general public at the beginning of the meeting advising them that the committee would not be going into closed session.

Mr. DeGabriele informed the Board that he believes that the action proposed by the Water Agency on September 15th may be a breach of contract and it is a concern that they are proposing to withdraw their applications for additional water rights from the Russian River.

Mr. DeGabriele stated that on attempting to get the WAC into closed session, while in conference with Director Rodoni, the District decided to use Bob Maddow and would share the cost of legal advice with Valley of the Moon. He stated that he was surprised at the WAC members' acceptance of the Agency's redirection. Mr. DeGabriele stated that there is question from legal counsel on the wisdom of abandoning the application for additional water rights. He stated that the application has been in place since 1999 and is in pending status.

Mr. DeGabriele discussed the Water Contractors' statistics stating that everyone is doing a great job. He stated that some of the WAC representatives want to measure each individual contractor against their monthly allocation. Mr. DeGabriele stated that he argued against that because in order to be successful the contractors must work together and they need to count their successes rather than measure up against each other. He stated that he was unsuccessful in changing the WAC members' decision.

Mr. DeGabriele said that the committee talked about the water project redirection and strategies. He informed the Board that he had prepared two resolutions: one saying that the Agency needs to table the redirection and work on the water right application; and the second was not to do the majority of the redirection but to do the analysis before proceeding and not to modify or withdrawal the water right application. He stated that the second resolution was adopted by the WAC.

Mr. DeGabriele told the Board that he recommended that one party be delegated to take a lead in legal review and use an instrument to sign off to use the legal counsel. He stated that Mr. Maddow recommended that it be an in-house counsel to avoid conflict of interest. Mr. DeGabriele opined that he did not see much interest from the other contractors in pursuing anything more than the resolution.

Director Rodoni pointed out that Mr. DeGabriele is the only TAC member speaking out. He stated that all of the contractors agree with him but no one is willing to speak up.

MISCELLANEOUS

The Board received the following miscellaneous information: Disbursements, Letter – Indian Valley Associates and APS Billing Error.

The Board also received the following news articles: Salinity Notice (2) and Recycled Water for Cemetery.

CLOSED SESSION

President Rodoni adjourned the Board into closed session at 8:38 p.m. for Conference with Legal Counsel - Anticipated Litigation – Initiation of Litigation Pursuant to Subdivision (c) of Government Code Section 54956.9 – One Potential Case.

OPEN SESSION

Upon returning to regular session at 10:00 p.m., President Rodoni stated that during the closed session the Board had discussed the issues and that there will be a special meeting set for 7:30 p.m. on September 10, 2009.

ADJOURNMENT

President Rodoni adjourned the meeting at 10:01 p.m.

Submitted by

Katie Young
Acting District Secretary