

1 **NORTH MARIN WATER DISTRICT**  
2 **MINUTES OF REGULAR MEETING**  
3 **OF THE BOARD OF DIRECTORS**  
4 August 3, 2010

5 **CALL TO ORDER**

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

11 Joe Wiley of Wiley Price Radulovich, Novato resident Ed Schulze, twenty District  
12 employees and Robert Clark (Operations/Maintenance Superintendent) and Doug Moore  
13 (Construction/ Maintenance Superintendent) were in the audience.

14 **CLOSED SESSION**

15 President Baker immediately adjourned the Board into closed session for Public Employee  
16 Discipline/Dismissal/Release, in accordance with California Government Code Section 54957.

17 **OPEN SESSION**

18 Upon returning to regular session at 8:20 p.m., President Baker stated that during the  
19 closed session the Board heard an appeal from a District employee subject to discharge by the  
20 General Manager, discussed the issue and the following reportable action had been taken:

21 On motion of Director Rodoni and seconded by Director Baker, the Board voted to sustain  
22 the General Manager's recommendation by the following vote:

23 AYES: Directors Baker, Fraites, Petterle, Rodoni

24 NOES: Director Schoonover

25 ABSTAIN: None

26 ABSENT: None

27 **MINUTES**

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

1 **GENERAL MANAGER'S REPORT**

2 **Recycled Water Sub-committee**

3 Mr. DeGabriele said that a Recycled Water Sub-committee meeting on Thursday, August  
4 12<sup>th</sup> is scheduled to discuss possible District membership in the North Bay Water Reuse Authority.

5 **Liquidated Damages**

6 Mr. DeGabriele provided an update on the Sonoma County Water Agency invoice for  
7 liquidated damages for Russian River deliveries received last summer that exceeded the allocation  
8 threshold. He said that the City of Rohnert Park conveyed a portion of their entitlement to North  
9 Marin, but that SCWA attorneys and District attorneys are not in agreement that the transfer is  
10 acceptable to settle the Agency's claim. He said that the amount of money in question is not  
11 significant enough to justify getting the attorneys involved; the Agency will accept a new allocation  
12 table, but he will have to go to the WAC to get that done. He said that this will be a more cost-  
13 effective approach to settling the claim.

14 ***OPEN TIME:***

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

17 ***STAFF/DIRECTORS REPORTS***

18 President Baker asked if staff or Directors wished to bring up an item not on the agenda and  
19 there was no response.

20 **PRELIMINARY FY10 FINANCIAL STATEMENT**

21 Mr. Bentley reviewed the Preliminary FY10 Financial Statement and advised that after the  
22 outside audit is conducted, the Final FY10 Financial Statement will be presented. He reported that  
23 the District budgeted a surplus of \$500,000 for FY 10, but suffered a loss for the year of  
24 approximately \$250,000. He explained that on the revenue side, water sales came in \$700,000  
25 less in revenue than budgeted and connection fee revenue came in \$1.3M under budget with the  
26 only one project coming in. He said he was surprised that the Warner Creek Senior Housing  
27 agreement expired; they will no longer be eligible at the previous rate (\$500,000) and they will now  
28 be required to pay \$750,000 in connection fees when the agreement is renewed.

29 Mr. Bentley said that on the expense side, the District came in 99% of budget and the extra  
30 50 mg of water produced by Stafford Treatment Plant saved \$94,000 in the cost of purchased water  
31 from Sonoma County Water Agency. He said that 64% of the improvement projects budget (solar

1 project not included) was expended saving approximately \$1.1M. He said the bottom line shows a  
2 \$750,000 loss to the District.

3 Mr. Bentley reviewed the end of year financial summary for each individual improvement  
4 district.

5 **ACTION CALENDAR**

6 **AUTHORIZE GENERAL MANAGER TO ACCEPT CONVEYANCES OF REAL PROPERTY**

7 Mr. DeGabriele stated that at the July 20, 2010 meeting, the Board authorized staff to  
8 execute a purchase transaction with Union Pacific Railroad for property in West Marin for the Point  
9 Reyes Treatment Plant expansion. He advised that Resolution 02-35, enabling the General  
10 Manager to accept Grants of Easements on behalf of the District, does not address his authority to  
11 accept real property conveyances. Mr. DeGabriele said that District legal counsel recommends this  
12 further resolution and noted that this proposed resolution does not authorize the General Manager  
13 to expend District funds for property acquisition without Board approval.

14 On motion of Director Schoonover and seconded by Director Petterle, the Board voted  
15 unanimously to approve Resolution No. 10-14 entitled, "A Resolution of North Marin Water District  
16 Authorizing the General Manager to Accept Conveyances of Real Property Interests."

17 Director Petterle advised that he had to be excused from the remainder of the meeting and  
18 left at 9:26 p.m.

19 **DUPLICATE MEDICAL COVERAGE POLICY ADMINISTRATION ERROR**

20 Mr. Bentley informed the Board that he recently became aware of an error in the  
21 administration of the District's duplicate medical coverage policy. He said that six employees are  
22 affected who have been receiving cash compensation from the cafeteria plan but do not qualify  
23 under the policy as written. He provided the Board with the history of the policy (first approved by  
24 the Board in 1990 and amended in 1993) and stated that the original intent was to share the cost-  
25 savings enjoyed by the District with employees if an employee declined coverage for individual  
26 family members. He stated that in 2005 the District negotiated a new agreement and adopted a  
27 cafeteria plan and a new policy that negated the 1993 amendment. The new policy states  
28 "Employees must provide acceptable proof of alternative insurance for themselves and all  
29 dependents to use the cafeteria plan contribution for purposes other than supplemental medical  
30 insurance." Mr. Bentley explained that the intent of the policy was to encourage employees to  
31 remove the entire family from the District health plan. He said that the new agreement's cost  
32 sharing formula allows 78% of the savings to the employee, and currently, there are ten additional  
33 employees whose entire family is off the District plan resulting in a savings of \$28,000 per year for

1 the District. Mr. Bentley further explained that there were two employees who had partial coverage  
2 and who should have gone off the plan when the new agreement became effective, but did not. He  
3 said that since then four more employees who have partial coverage were added to the plan,  
4 costing the District \$36,000 per year with no cost savings to the District. Mr. Bentley advised that  
5 the six employees feel strongly that they should be able to keep this benefit.

6 Mr. Bentley stated that it is important to view this issue in context of the negotiated  
7 agreement at that time. He said in 2005 the employees received an 8% salary increase and also  
8 received the 2.5% at 55 retirement benefit. The Board was informed that both the SEIU  
9 represented and unrepresented employees voted to accept the package which explicitly identified  
10 that proof of alternative insurance would be required for the entire family in order to use the  
11 cafeteria plan cash compensation.

12 Mr. Bentley summarized four options for the Board to consider:

13 Option 1: Change the current practice to align with the March 2005 policy language and  
14 cease providing cash out of the cafeteria plan for the six employees who do not have full alternative  
15 coverage.

16 Option 2: Change the current policy and practice and allow the six employees with  
17 alternative coverage to continue receiving cash compensation but deduct \$3,830/FTE annually from  
18 their cafeteria plan contribution.

19 Option 3: Change the policy to align with current practice.

20 Option 4: Require the six employees who received cash benefits to repay the District.

21 Mr. Bentley informed the Board that staff's recommendation is Option 1.

22 Director Rodoni asked if the subject came up during the negotiation of the current  
23 agreement. Mr. Bentley said no, that he did not discover the error until recently. Director Rodoni  
24 also inquired when the next opportunity to discuss this issue would take place, and Mr. Bentley  
25 answered September 2011 when negotiations for a new agreement take place.

26 Director Schoonover asked if the policy was agreed to by the employees. Mr. Bentley said  
27 that it was.

28 President Baker invited members of the audience to address the Board.

29 Corey Reed stated that the policy is very important to his family and the cash compensation  
30 helps offset the extra costs not covered by the medical and dental plans. He said he feels fortunate  
31 to be employed by the District and advocated for the Board to approve Option 3.

1            Nancy Williamson summarized her situation stating that her daughter is covered under her  
2 former husband's plan; her husband and son are covered under her husband's plan. She stated  
3 that that the cash compensation pays for her son's health coverage on her husband's plan. She  
4 said that if the Board approves Option 1, she will have to enroll her entire family on the District's  
5 health plan and her family will then have to give up their individual doctors.

6            Carmela Chandrasekera stated that she is married with two children and that her husband  
7 and two children are covered by her husband's employer's health plan, and she is covered by the  
8 District's plan. She said that she has been receiving the cash compensation since 2004 and uses  
9 that money towards her children's education and expenses. She requested that the Board choose  
10 Option 3 to change the policy to align with current practice.

11           Dianne Landeros stated that she is married with three daughters; her oldest daughter is not  
12 covered as she is over 23 and her middle daughter has coverage through her employer. She said  
13 that her youngest daughter is attending school out-of-state; and therefore, the District's HMO does  
14 not cover her. She said that she does not have the option of being enrolled in another plan as her  
15 husband is unemployed. Ms. Landeros said that she uses the cash compensation to purchase  
16 medical insurance for her daughter; and if the Board approved Options 1 or 2, she would have to  
17 enroll the family back on the District's plan and pay for coverage that she cannot use, and continue  
18 paying for her daughter's out-of-state health coverage.

19           Mike Baccei stated that he is currently separated from his wife and still residing in their  
20 home. He said that his wife is covered by her employer and that the cash compensation helps him  
21 meet expenses. He said that Option 4 would not be fair to affected employees.

22           Marco Jennison (via email and read by Mr. Ramudo) stated that his wife, who is retired, has  
23 seen a specialist for many years and has her own insurance. He said that he uses his cash  
24 compensation to help pay approximately half of their out-of-pocket costs for her medical bills and it  
25 would be a hardship if he was no longer receiving the payout. He asked that the Board to consider  
26 Option 3.

27           Mr. Ramudo, representing the Employee Association, addressed the Board. He said that  
28 the Employee Association does not want the District to return to the 1993 expanded policy and  
29 requested that the District continue to administer the cafeteria plan as negotiated in 2004 and 2009.  
30 He said that the Association is prepared to use its resources to challenge the District if the policy is  
31 changed from its current practice. Mr. Ramudo presented five points for the Board's consideration:

1           1.    In 2004, during weeks of negotiations with the unrepresented group, the cafeteria plan  
2 option language did not state “alternative” until the final version. On at least one occasion during  
3 negotiations, it was explained to employees that the District had proof of insurance provided by the  
4 District, therefore employees would only have to provide proof if there was alternative insurance for  
5 any family member.

6           2.    In at least four cases, additional employees with hybrid coverage were encouraged to  
7 enroll to receive cash compensation after contracts outlining cafeteria plan administration went into  
8 effect.

9           3.    During 2009 negotiations, and after lengthy discussions on the cafeteria plan,  
10 employees agreed to accept the negotiated \$137/year salary increase through the cafeteria plan  
11 only after the District’s negotiators provided clarification on how the cafeteria plan was  
12 administered, and confirmed that all employees, regardless of their insurance status, would receive  
13 \$137. The District’s argument now that the six employees cannot receive the balance of the  
14 cafeteria plan as cash or deferred comp not only contradicts the explanation of “cafeteria plan  
15 administration” during the negotiations, it also means that the negotiated salary increase will not be  
16 paid to these six employees.

17                   Changing the way the cafeteria plan is administered now constitutes at least a breach  
18 of the “negotiations in good faith” between the employees and the District.

19           4.    The savings outlined in Mr. Bentley’s memo will not materialize. The figure quoted in  
20 Mr. Bentley’s memo assumes that none of the employees will re-enroll their family members in the  
21 District’s medical plan. Employees will have to enroll their families in the District’s health insurance  
22 plan to cover family members that now receive coverage by other insurance. In some cases, this  
23 will mean family members will have duplicate coverage in force, with no savings to the District and  
24 to the financial detriment of employees.

25           5.    Employees who opt to receive cafeteria plan balances as cash sign an agreement with  
26 the District detailing the cafeteria plan election. The agreement states that the employee  
27 understands that they cannot make a change in or revoke the agreement unless there is a change  
28 in employment or family status. It is argued that the District has a similar responsibility.

29           Mr. Ramudo closed his presentation by urging the Board to adopt Option 3.

30           Director Rodoni asked Mr. Wiley if Option 3 violates the agreement. Mr. Wiley responded  
31 that in his point of view, Option 3 can be considered since policies are subject to change. He said  
32 the agreement, however, cannot be changed without opening up negotiations.

1 Director Schoonover asked if under Option 3, should anyone be hired in the future or if  
2 current employees' family status changes, would they be eligible for the cash benefit. Mr. Bentley  
3 responded yes.

4 Director Fraites asked if Option 3 were approved, what would the financial impact be on the  
5 District. Mr. Bentley said it currently costs the District \$36,000, but increases in the cost of  
6 coverage or if additional employees join the program, the cost to the District would increase.

7 Director Petterle asked for clarification on the language of the policy versus the  
8 administration of the policy. Mr. Bentley read the policy and explained that the intent was that the  
9 employee and all family members would be off the District medical plan before receiving the cash  
10 compensation.

11 Director Rodoni asked for an explanation of how the policy has been administered. Mr.  
12 Bentley said the 1993 expansion of the policy allowed that part of the family could be covered and  
13 when the 2005 policy changed, the two employees who were on the 1993 plan were not removed  
14 from the plan; their benefit continued. He stated that since then four additional employees have  
15 joined, and that he should have caught the error.

16 Director Rodoni asked Mr. Wiley if the Board has the authority to change the policy to  
17 exclude current or new employees. Mr. Wiley said that the Board does not have the authority to  
18 change the policy but can provide direction to staff to negotiate or discuss the issue with the  
19 Association.

20 Director Baker said that because of an oversight by administration, six employees are  
21 receiving a benefit that they should not be getting. He said the Board should not make new rules  
22 because of an administrative oversight and ignore the 2005 policy. Director Baker stated that he  
23 believed the fairest option is Option 1 and that it is appropriate to change the current practice to  
24 align with the March 2005 policy language.

25 There were further questions and discussion.

26 Director Rodoni opined that there are only two options for the Board's consideration: to  
27 approve Option 3 and direct staff to negotiate with the Association to restrict any additional  
28 employees - those who have the advantage would keep receiving the cash compensation until the  
29 new negotiation; or table the issue until the 2011 negotiations.

30 Director Petterle stated that he agreed with Director Rodoni.

1 Director Schoonover moved that the Board approve Option 3, change the policy to align  
2 with current practice, as amended to include that staff negotiate with the Employee Association to  
3 restrict further additions of any new or current employees to participate.

4 Director Rodoni seconded and the Board voted unanimously to approve the motion.

5 Mr. DeGabriele thanked the Board for listening to and considering the employees' input on  
6 this issue that reflects poorly on management.

7 President Baker encouraged staff to provide better oversight on policies and procedures to  
8 prevent a similar situation from happening in the future.

9 **SELF-INSURED DENTAL PLAN FINANCIAL EVALUATION**

10 Mr. Bentley said this item is for the Board to consider revising how the dental plan savings  
11 is measured and provided detailed background information on the benefit package. He said that  
12 the dental plan was discussed at length during negotiations with the Employee Association in 2009;  
13 and informed the Board that staff recommends revising the concept of calculating savings based on  
14 the cost of the District's plan versus its "market" value as there is no comparable plan in the market.  
15 The Board was further informed that the Association and management desire to keep the existing  
16 plan that provides a \$1500 cap per employee and dependents for dental procedures (a \$500  
17 increase in February 2010). Mr. Bentley stated that staff has proposed that the increase in the  
18 dental benefit be tied to the CPI so that the benefit cannot increase more than the change in the  
19 CPI. He stated that the Association is not in agreement and has proposed that the District adopt  
20 the Medical CPI as the index for dental benefit increases as medical costs have increased twice the  
21 rate of the CPI.

22 Director Rodoni asked would the cost of the program be calculated \$1,500 times the  
23 number of people on the plan.

24 Mr. Bentley said no, because most employees don't use the entire benefit. He said there  
25 are 160 people on the plan and expenditures are approximately \$60,000, about one-third of the  
26 maximum on average.

27 Director Rodoni asked for an explanation of what staff is attempting to achieve in identifying  
28 the dollar amount.

29 Mr. Bentley said that staff is attempting to find an equitable method to discipline the self-  
30 funded dental expenditures by proposing an annual spending cap that is tied to the CPI.



1 Dave Jackson, representing the Employee Association, addressed the Board and said that  
2 the Association proposes that the Medical CPI be used as the indicator to estimate the increase in  
3 dental costs. Mr. Jackson stated that since 1983, the dental coverage was \$1,000 for each person  
4 and in February 2010, the limit was increased to \$1,500. Mr. Jackson stated that District dental  
5 coverage has not kept up with expenses and if the limit was based on the Medical CPI, the cap  
6 would now be \$4,000 per person. He stated that in 2009, the total dental expenditure was \$126,000  
7 of which the District paid 47% and employees paid 53% out-of-pocket. He said of that amount,  
8 17% (\$21,000) were costs in excess of the \$1,000 per person limit. Mr. Jackson said that the  
9 Association feels the benefit for the employees should be maintained with the expansion of the  
10 costs. He stated that enrollment changes over the years as families change and that enrollment in  
11 the District's plan has increased because there are now many young families. He said this factor  
12 was not taken into account in Mr. Bentley's analysis. He opined that tying dental costs to the  
13 medical CPI is a better representation of actual costs for professional medical services.

14 Tony Arendell spoke to the Board about his daughter's accident which resulted in extensive  
15 dental work to repair broken teeth and suggested the District create a catastrophic dental fund for  
16 such occurrences. He said had it not been for his wife's dental coverage, they would have paid  
17 \$9,000 out of pocket.

18 Director Rodoni again asked for further clarification on the point of staff's recommendation.

19 Mr. DeGabriele said that staff is attempting to value the District's plan in the market place  
20 and that staff is recommending that the escalator be based on the CPI. He said that this past year  
21 the dental cap was increased to \$1500 and what the annual cost will be in the future is unknown.  
22 He stated that in the past it was policy to share the savings with employees because the District  
23 self-insures and staff is attempting to set the benchmark on how to measure the value of the plan  
24 and what the savings is going to be. Mr. DeGabriele said as time goes forward, the cost will  
25 increase, and the CPI or Medical CPI will also increase and that will determine the savings so that  
26 when negotiations on this issue begin in 2011, there will be a better handle on where the  
27 benchmark is and how to determine the savings.

28 Mr. Jackson stated that part of the discussion in the negotiations was how the District would  
29 measure the savings. He said that from the Association's perspective, it doesn't matter how the  
30 District calculates the savings; what is important is that the District's dental plan keep up with  
31 inflation and provide benefits for the employees.

32 Director Fraites asked if there was a Dental CPI and Mr. Bentley said yes, that it is a sub-  
33 component of the Medical CPI. Director Fraites suggested that staff investigate that as an option.

1 The Board directed staff to look at the Dental CPI and have further discussions with the  
2 Employee Association. It was the consensus of the Board to table the issue until a future meeting.

3 ***INFORMATION ITEMS***

4 **STAFFORD LAKE SOLAR PROJECT – DESIGN, BUILD AND FINANCE CONTRACT AWARD**

5 Mr. Bentley stated that staff has not yet been able to identify cost-effective financing for the  
6 proposed Stafford Lake Solar Project. He said that the scope of the project has been modified to  
7 realize a zero cost PG&E power bill rather than offsetting the electrical use to operate the plant. He  
8 advised that with this modification, plus the drop in solar panel prices, the cost of the project has  
9 been reduced from \$4M to \$2M. Mr. Bentley further advised that the District cannot pay cash and  
10 needs to finance the project, and he outlined two options that staff has explored. He said that one  
11 option is a seven-year lease/purchase agreement that allows outside investors to offer discount  
12 financing in exchange for reaping tax benefits unavailable to the District. He said that close  
13 investigation of this option identifies that the District would be required to pay cash up front but the  
14 District wants to finance the entire project.

15 Mr. Bentley advised that the second option is a Power Purchase Agreement wherein the  
16 project is owned, operated and maintained by a third party and the District pays a guaranteed rate  
17 for power over a 25-year period. He said the District would save money from day one; however,  
18 funding from solar providers is not available for power purchase agreements until 2011. Mr. Bentley  
19 stated that financing terms are changing daily and that staff hopes to come back to the Board in  
20 2011 with a reasonable financing option for consideration.

21 **WEST MARIN BILLING ERROR**

22 Mr. Bentley advised that due to a clerical error, 76 non-residential West Marin customers  
23 received their February, April and June bills calculated at the seasonal rate instead of the non-  
24 seasonal rate. He said customers will receive a letter advising them of the credit being posted to  
25 their account.

26 **WAC/TAC MEETING – AUGUST 2, 2010**

27 Mr. DeGabriele provided a summary report on the WAC/TAC meeting of August 2, 2010  
28 and said there was a lot of discussion on the Draft SCWA Water Supply Strategy Action Plan  
29 comments from the water contractors. He said a TAC sub-committee will be meeting in mid-August  
30 to consolidate comments and a special WAC/TAC meeting is scheduled for September 13 to review  
31 all contractor comments. He said the goal is to authorize the WAC Chair and Vice-Chair to submit  
32 comments to the SCWA Board on September 21. He said that work is going well on the Urban

1 Water Management Plan and Long Range Financial Model. He said contractors got their first look  
2 at updated demand and conservation estimates.

3 Director Rodoni noted the letter from Grant Davis, SCWA General Manager, inviting WAC  
4 and TAC members to the Russian River water supply system tour on September 18. He also noted  
5 that Mr. Davis is encouraging WAC members to schedule a trip to Washington, DC September 28<sup>th</sup>  
6 through 30<sup>th</sup> to meet with elected officials to discuss funding for the Biological Opinion

7 **NORTH BAY WATERSHED ASSOCIATION MEETING – JULY 9, 2010**

8 The Board was provided the minutes of the North Bay Watershed Association meeting of  
9 July 9, 2010.

10 **MISCELLANEOUS**

11 The Board was provided the following miscellaneous items: Disbursements, Letter from  
12 Customer, ACWA Region 1 Convenes in Eureka. The Board was also provided the following news  
13 article: North Marin Water District Chooses Marin Clean Energy’s “Deep Green” Program for West  
14 Marin – But Not Novato.

15 **ADJOURNMENT**

16 President Baker adjourned the meeting at 9:51 p.m.

17 Submitted by

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Renee Roberts  
District Secretary