

**NORTH MARIN WATER DISTRICT  
MINUTES OF REGULAR MEETING  
OF THE BOARD OF DIRECTORS  
November 2, 2010**

**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 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.

Michelle Durgy, City and County of San Francisco, Novato resident Ed Grundstrom, District employees Robert Clark (Operations/Maintenance Superintendent), Doug Moore (Construction/Maintenance Superintendent), Dianne Landeros, Nancy Williamson, Nancy Holton, Kerry Lemos, Brad Stompe, Sue Kessler, Ken LeBrun, Carmela Chandrasekera, John Mello, Miguel Venegas, Terrie Kehoe, Corey Reed, Mike Baccei, Tony Arendell, Pablo Ramudo and Sarah Lucchesi were in the audience.

**MINUTES**

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

**GENERAL MANAGER'S REPORT**

**Novato Sanitary District Ribbon-Cutting Ceremony**

Mr. DeGabriele stated that he attended the Novato Sanitary District Wastewater Treatment Plant ribbon-cutting ceremony on Tuesday, October 26 and that it was well-attended.

**Harassment and Workplace Violence Training**

Mr. DeGabriele advised that on Thursday, November 4, all employees will receive a Harassment and Workplace Violence training presented by Joan Pugh-Newman of Wiley, Price, Radulovich.

**Mutual Aid Agreement with Novato Sanitary District**

The Manager informed the Board that the District's lab technician will be working 30% at the Novato Sanitary District laboratory in accordance with the NMWD/NSD Mutual Aid Agreement. He said that NSD will be picking up the incremental cost of salary and overhead.

**OPEN TIME:**

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

Ed Grundstrom, 2034 Hatch Road, spoke to the Board of his concerns on the following: bond issue, expansion of the aqueduct capacity, solar panel project financing, water use and effect on rates, and the “re-employment” of retired employees.

Kerry Lemos, Maintenance Supervisor and Chair of the North Marin Water District Employee Association (EA) addressed the Board concerning the proposed cost of living salary adjustment (COLA) that will be heard in closed session. He stated that the EA understands the effect the economy has had on business and its effect on District employees, and asked the Board to consider approving the salary increase. He said that management has continued to compliment staff on its commitment and professionalism, but that during negotiations, the EA was advised that the Board would not approve salary increases for employees. Mr. Lemos continued by stating that at the April 6<sup>th</sup> meeting, the Board approved a 2% salary adjustment for three management employees. He said that the Board’s rationale for awarding the salary increase was that the three employees were “key employees” and were very important to the District. He said that there are more “keys on the key ring” than just three people. Mr. Lemos asked the Board to continue the historical practice of rounding up the CPI to the nearest 10<sup>th</sup> to 1%; and based on the terms of the MOU between the District and the EA, award the minimum COLA of 2% to employees.

Brad Stompe, Distribution and Treatment Plant Supervisor and Vice-chair of the NMWD EA, addressed the Board and said that the members of the EA strongly supports the salary increase based upon the MOU terms.

**STAFF/DIRECTORS REPORTS**

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

Tomales State of the Bay Seminar

Robert Clark reported that last weekend he attended a seminar for the Tomales State of the Bay and met with scientists who expressed interest in assisting the District with studying the salinity intrusion in the Point Reyes water system. He said that Pablo Ramudo, Water Quality Supervisor, has been contacted by one of the scientists, and he said the scientists are interested in developing a project to help better understand the salinity problem.

### Water Line Break

Drew McIntyre reported that there was a water line break on South Novato Boulevard in the vicinity of a break that occurred four years ago. He said at the time of the previous break, the pipe was tested with good results and surmised that because this current break occurred within a short period of time from the last break, it will be necessary to replace a larger segment of pipe. He said that a project will be added to the Improvement Projects Budget to replace the cast-iron pipe originally installed in 1958. He advised that this will be a relatively expensive repair.

### NBWRA Congressional Briefing

Mr. McIntyre thanked Directors Baker and Schoonover for representing the District at the Congressional Briefing for the North Bay Water Reuse Authority. The purpose of the event was to recognize Congressman Thompson and Congresswoman Woolsey for their support of the NBWRA and the award of ARRA grant funding.

### **PRESENTATION –GFOA CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING**

Dianne Landeros, HR/Accounting Supervisor, advised that the District has received a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association (GFOA). She explained that this is a national organization that has high standards for audit reporting and that the District earned this award for the Fiscal Year 2008-09 audit. Ms. Landeros recognized Accountants Nancy Holton and Nancy Williamson and Dave Jackson, Arthur Cantiller and Sue Kessler for their assistance in preparing the report. She introduced Michelle Durgy, Chief Investment Officer for the City and County of San Francisco and representative of the Government Finance Officers Association.

Ms. Durgy stated that the purpose of the Certificate of Achievement for Excellence in Financial Reporting is to encourage and assist governments to prepare financial reports of the highest quality for the benefits of citizens and other parties with a vital interest in government finances. She further stated that to earn the certificate the North Marin Water District had to substantially conform to the program's demanding criteria which go well beyond the minimum requirements of the Generally Accepted Accounting Principles. Ms. Durgy presented the award to the Board.

### **CONSENT CALENDAR**

On motion of Director Rodoni, seconded by Director Petterle and unanimously carried, Agenda items 6 through 10 and item 12 were approved on the Consent Calendar. Agenda item 11 was removed for further discussion.

**BUCK INSTITUTE FOR AGE RESEARCH CIRM BLDG 3 FIRE SERVICE**

The Buck Institute for Age Research is constructing a new building called the California Institute for Regenerative Medicine, Building 3. In 1996 when the Buck Institute was constructed, a Water Service Agreement was executed for 67 EDUs. The new building will add an estimated 17 EDUs. After a review of the water demand history, it was determined that the ten-year average demand is 35 EDUs for both existing domestic and irrigation use at the Buck Institute; therefore the total updated water demand, including the new building, is 52 EDUs. No change in entitlement is included in the agreement. Water facilities include one six-inch fire service and ten feet of fire service lateral.

The Board approved Resolution 10-19 entitled, "Authorization of Execution of High Pressure Water Service Facilities Construction Agreement with Buck Institute for Age Research."

**FY 10 ANNUAL REPORT**

The Board approved the Annual Report for Fiscal Year 2009-10.

**CONTRACT WITH LEONARD CHARLES & ASSOCIATES (CEQA DOCUMENTATION FOR PRE #4 WATER TANK REPLACEMENT)**

The Board authorized the General Manager to execute an agreement with Leonard Charles & Associates for the amount of \$15,250 for the preparation of CEQA documentation for the PRE #4 Water Tank Replacement Project. This new 83,000 gallon concrete tank will replace the 25,000 gallon redwood tank destroyed in the Mt. Vision fire in 1995. Because the new tank will be larger than the original tank; and because it is located within the boundary of the California Coastal Commission, the project will need to satisfy CEQA and California Coastal Commission requirements.

**NOTICE OF COMPLETION FOR STAFFORD DAM OUTLET TOWER REHABILITATION PROJECT (SYBLON REID)**

The Board authorized the General Manager to file a Notice of Completion for the Stafford Dam Outlet Tower Rehabilitation Project. The contractor, Syblon Reid, has fulfilled its obligation under the contract and the project has been inspected by the District and its representatives. The final completion date for the project was August 3, 2010 and a Conditional Final Release Certificate was submitted by Syblon Reid on October 13, 2010.

**OUTSIDE AUDITOR'S FY2009/10 REPORT AND MANAGEMENT LETTER**

The Board accepted the Outside Auditor's Fiscal Year 2009/10 Financial Report and Management Letter. Said audit was performed by Charles Z. Fedak & Company.

### **FRIEND OF COURT LETTER - CA SUPREME COURT PETITION FOR REVIEW**

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

Mr. DeGabriele stated that Yorba Linda Water District is being sued for inadequate water service for fire suppression during the Freeway Complex fire storm in 2008 wherein several residences were damaged, and has solicited water districts in the state to submit an Amicus Curiae (Friend of Court) letter in support of Yorba Linda Water District's Petition for Review with the California Supreme Court. He said that the trial court and appellate court sided with the litigants and positioned that Firefighters Immunity does not apply to water districts. Mr. DeGabriele stated that ACWA has drafted a Friend of the Court letter and advised that District legal counsel has suggested that it would be a good idea for North Marin to support Yorba Linda's Petition for Review. Mr. DeGabriele stated that the draft letter for the Board's approval tonight is under the signature of the General Manager; however in discussion with District legal counsel Bob Maddow, Mr. Maddow opined that the court would look more favorably upon a letter signed by legal counsel rather than the General Manager or President of the Board. He said he is asking for Board authorization for District legal counsel to send a Friend of the Court Letter to the California Supreme Court in support of Yorba Linda Water District Petition for Review.

On motion of Director Schoonover and seconded by Director Frites, the Board unanimously voted to authorize District legal counsel to send a letter under Mr. Maddow's signature.

### **SIGNATORY STATUS - STATEMENT OF UNDERSTANDING FOR CENTRAL CALIFORNIA COAST STEELHEAD RECOVERY PROGRAM**

The Board authorized the General Manager to sign the Statements of Understanding (SOU) for the Central Coast Steelhead Recovery Program as signatory for North Marin Water District. This is of interest to the District since Novato Creek is identified as having a Steelhead population subject to the recovery plan. Signatories to the SOU will have an opportunity to review and comment on the draft of the recovery plan before it is released for public review.

### **ACTION CALENDAR**

#### **REQUEST FOR BILL ADJUSTMENT**

Mr. DeGabriele stated that Kathryn Bryan received a \$200 bill for her June through August water usage and she has requested a bill adjustment. He said that Ms. Bryan has had several conversations with the Consumer Services Supervisor who advised her that her water usage was just under the threshold for a bill adjustment; and therefore, was not qualified for an adjustment according to Board policy. He stated that Ms. Bryan asked for and received a written letter

explaining why she did not qualify for the bill adjustment. He informed the Board that Ms. Bryan did have toilet leaks which were repaired. Mr. DeGabriele said that unfortunately for Ms. Bryan, the water was used and staff does not have the authority to go beyond the Board's Bill Adjustment Policy. He recited three options for the Board to consider: 1) follow the Bill Adjustment Policy and do not adjust the bill; 2) allow a bill adjustment and credit her account \$49.47; or 3) split the difference and credit her account \$24.74.

Director Rodoni suggested that had Ms. Bryan not repaired the leak when she did, her usage would have gone over the threshold and qualified her for a bill adjustment and moved that the Board approve option number 2 - credit her account \$49.47. Director Fraites seconded the motion.

The Board voted unanimously to allow a bill adjustment to Ms. Bryan in the amount of \$49.47.

#### **WRONGFUL DISCHARGE CLAIM – LAUREN WAYNE**

David Bentley reported that the District has received a claim for Wrongful Discharge from an attorney representing Lauren Wayne. He informed the Board that the rejection of Mr. Wayne's claim will start the clock on the six-month statute of limitations permitted to file court action.

On motion of Director Rodoni, seconded by Director Schoonover, the Board unanimously voted to deny the Wrongful Discharge Claim for Lauren Wayne.

#### **INFORMATION ITEMS**

##### **QUARTERLY PROGRESS REPORT – ENGINEERING**

Drew McIntyre provided a brief summary of the Engineering Department first quarter progress. He said that of the 50 projects originally approved, six projects have been carried over and two were added for a total of 58 Improvement Projects. Of those 58 Improvement Projects, 32 are under the lead of the Engineering Department. He said he does not expect any overruns for the Novato and West Marin budgets and that he will provide a detailed analysis during the mid-year report. Mr. McIntyre said that the six carry-over projects equate to \$248,000. He said that if the solar energy project moves forward, it will not be a capital project but a purchase power agreement resulting in a significant reduction in the Improvement Projects budget forecast by \$2.4M.

Mr. McIntyre identified anticipated project overruns including the Marin Sonoma Narrows Aqueduct Relocation Project (aka Aqueduct Energy Efficiency Project). He advised that the budgeted amount for the CEQA portion of the project is \$300,000; however since the project has been accelerated, he expects to come back to the Board for authorization to proceed with the

design phase this year. He stated that recycled water projects, both in the north and south service areas, have been accelerated and higher costs have been budgeted for this fiscal year. Mr. McIntyre advised that the recycled water projects have been included in the five-year financial plan, but they have been moved to the current fiscal year to take advantage of the 25% grant funds from the federal stimulus funds.

Mr. McIntyre reported that the West Marin projects are projected to be completed within the original budget and no new projects have been added.

#### **QUARTERLY PROGRESS REPORT – WATER CONSERVATION**

Mr. McIntyre provided the quarterly progress report for Water Conservation and noted that Ryan Grisso, Water Conservation Coordinator, will be in attendance for the mid-year report. He stated that there has been an overall lower participation this year; however the High Efficiency Toilet and High Efficiency Washing Machine rebates remain constant. He said the Cash for Grass participation has dropped to a level consistent with historical participation, and noted that Cash for Grass participation was particularly high last year due to the water restrictions. Mr. McIntyre said that the *Water Line* newsletter is now in the design phase and will be mailed to customers in late November; Water Conservation will be focusing on indoor water use efficiency measures for the fall and winter months.

#### **GRAND JURY REQUEST FOR INFORMATION**

Mr. DeGabriele advised that the Marin County Civil Grand Jury has requested that the District provide financial, salaries and benefits information and details of expenditures on alternative sources of water. He said that the list of materials provided to the Grand Jury is included in the agenda packet.

#### **STAFFORD PARK BIKE PARK FEASIBILITY STUDY**

Brad Stompe reported that he represented the District at the Marin County Parks and Open Space Commission meeting for the proposed Stafford Park Bike Park Feasibility Study. He said that during the public comment period, he spoke of the District's concerns over sedimentation and nutrient loading in Stafford Lake. He said he also spoke about concern with the STRAW project swale planting that would be in the heart of the project.

Director Baker stated he was concerned with erosion of the bike paths at the site over time.

Mr. Stompe said the study was very comprehensive and the commission was assured by the planner that there would be plantings and ground cover except on the bike path. He said the plantings would include native grasses and plants that would not require irrigation.

Director Baker asked if there is a comparable facility in the Bay Area, and Mr. Stompe replied no, that there is nothing like the proposed park in the area. He said that from the county's perspective, there is a big draw for this type of park because of the lack of such facilities.

Director Petterle stated that he will abstain from any Board action regarding the proposed bike park but would be available to answer questions from the Board acting as a County Parks representative, not as a Board member of North Marin Water District. He stated that the proposed bike park would be revenue producing for the County because it would increase use of the parking, but there would not be a charge for use of the facility.

Director Rodoni stated that he has concerns about the rationale for putting in a facility above a major water source considering the associated problems that come with people and cars. He asked if the county considered other locations.

Mr. Stompe replied that they looked everywhere else in Marin County but Stafford Park was the best location primarily because of the ample paved parking, restrooms and size of the park.

There was discussion among the Board.

Stephen Petterle, speaking as a Marin County Park Planner, said that the next step, once the feasibility study is approved is to meet with various stakeholders and begin the design process. He said if the project moves forward, issues such as sedimentation and funding will be addressed.

Director Fraites said he is concerned about runoff as the project is very close to the water source, and asked will there be a mitigation plan for runoff.

Mr. Petterle (speaking as a representative of the Parks Department) stated that there would be an environmental review and required CEQA documentation. He said the county recognizes the potential for many issues for this project including sedimentation. He stated that the design will include whatever it takes to ensure that the water quality going into the reservoir will be consistent to or better than the water quality going into the reservoir now.

Mr. Clark stated that Mr. Stompe will attend the Marin County Board of Supervisors meeting on November 30<sup>th</sup> when the feasibility study may be approved, and asked the Board to submit any comments or questions to him by next week so that those comments or questions could be addressed before the November 30<sup>th</sup> meeting.

### **SOLAR PROJECT FINANCING – STATUS REPORT**

Mr. Bentley stated that the District had selected SPG Solar of Novato as having the most cost-effective project for the Stafford Solar Project. He said finding financing has been very

challenging, and that SPG Solar has notified him that they have come up with a consortium of investors through SunTrust Bank that would be willing to finance the project under a Power Purchase Agreement. He explained that under a Power Purchase Agreement there would be no money out-of-pocket from the District; the investors would build, operate and maintain the project and provide security, and the District's responsibility would be to purchase power as it is produced. Mr. Bentley said the project will offset 600,000kWh per year of the Stafford Treatment Plant's 800,000kWh requirement. He stated that the District could sell power back to PGE at peak time at 45¢/kWh and run the plant at night using PG&E's time of use rate schedule and purchase power for 12¢/kWh and virtually eliminate the power bill. He said with this type of project the District will begin saving money in year one with no out-of-pocket costs.

Director Schoonover asked if Mr. Bentley was familiar with SunTrust bank. Mr. Bentley replied that it is a large bank headquartered in Atlanta, GA.

Director Baker expressed concern regarding financing through an out-of-state bank and possible risks involved. Mr. Bentley reminded the Board that the project is on District property and there would be a contract between the District and the financial investors.

Director Fraites said he was "thrilled" that Mr. Bentley was able to negotiate financing and that it is a win-win situation.

Mr. Bentley assured the Board that if the project financing doesn't "pencil out", the District will wait until it does before moving forward with the project.

### **WAC/TAC MEETING**

Mr. DeGabriele gave a report on the WAC/TAC meeting held on November 1 and spoke about the Temporary Allocation of the Transmission System Capacity for summer 2009 item on the WAC/TAC meeting agenda. He summarized the issue for the Board. He said that the Sonoma County Water Agency declared the water transmission system temporarily impaired due to "budgetary constraints" in Fiscal Year 09/10. He stated that the Agency developed an allocation for each prime contractor which totaled 53MGD; and for North Marin, the allocation was 6MGD. He stated that the North Marin delivery threshold was exceeded in June by a substantial margin and in July and August by a lesser margin. Mr. DeGabriele said he successfully argued that the June deliveries should not be included in any calculation for liquidated damages because the transmission system impairment was based on Fiscal Year 09/10 budgetary constraints and June deliveries were in the prior fiscal year. He stated that the \$90,000 bill for liquidated damages was reduced to \$40,000 which the District received in February.

Mr. DeGabriele reported that he negotiated with City of Rohnert Park to transfer a portion of its excess delivery entitlement for the months of July and August to North Marin; however, the Agency did not accept that and a new revised allocation table was developed. He said that the purpose of yesterday's meeting was to discuss the revised allocation table. He said Petaluma objected to the revised allocation table because they received a bill for liquidated damages in the amount of \$650. He reported that after much discussion, Petaluma made a motion that the Agency waive liquidated damages resulting from the temporary impairment for all water contractors which was accepted by the WAC. He said that he is hopeful this motion will prevail.

Mr. DeGabriele stated that the other item of note was the preliminary design for the proposed Dry Creek Habitat Enhancement Demonstration Projects and provided a copy for the Board's review. He said that the project is going forward and construction will occur in the summer of 2012.

#### **NORTH BAY WATERSHED ASSOCIATION MEETING**

Mr. DeGabriele provided the agenda for the North Bay Watershed Association meeting scheduled for Friday, November 5, 2010.

#### **MISCELLANEOUS**

The Board received the following miscellaneous item: Disbursements, and the following news articles: Final fix for water line and Santa Rosa Aqueduct Gets Major Check-up, Receives \$1.3Million FEMA Grant.

#### **CLOSED SESSION**

President Baker adjourned the Board into closed session at 8:46 pm in accordance with Government Code Section 54957.6; Conference with Labor Negotiators; District's Designated Representatives – Chris DeGabriele and David Bentley; Employee Organization – North Marin Water District Employee Association

#### **OPEN SESSION**

Upon returning to regular session at 9:23 p.m., President Baker stated that during the closed session the Board had discussed the issues.

President Baker stated that the change in the Consumer Price Index for the twelve months ending August 31, 2010, came in at 0.953%, and that the District's historical practice has been to round the CPI change to the nearest tenth of a percentage point, which would render the August 31 change to 1.0%, which under the terms of the Memorandum of Understanding (MOU) with the

Employee Association (EA) would result in a 2% salary increase for employees. The MOU language states:

“Effective October 1 of each subsequent year of the agreement, as measured by the CPI-U SF Bay Area (September 1 of the previous year through August 31 of the current year), employees shall receive a COLA equal to the percentage change in the CPI noted above, except that the increase shall not be less than two percent (2%) nor more than five percent (5%). In the event that the CPI-U change is less than one percent (1%) or more than six percent (6%), the parties agree to reopen the MOU for the limited purpose of discussing a wage increase.”

President Baker stated that after much debate, Director Petterle moved to award a COLA of 2% pursuant to the current MOU with the EA effective October 1 for members of the NMWD EA. Director Rodoni seconded the motion and the motion was approved by the following vote:

AYES: Directors Petterle, Rodoni, Schoonover

NOES: Directors Baker, Fraites

ABSTAIN: None

ABSENT: None

### **ADJOURNMENT**

President Baker adjourned the meeting at 9:25 p.m.

Submitted by

Renee Roberts  
District Secretary