

**NORTH MARIN WATER DISTRICT
MINUTES OF REGULAR MEETING
OF THE BOARD OF DIRECTORS
May 21, 2019**

CALL TO ORDER

President Baker called the regular meeting of the Board of Directors of North Marin Water District to order at 6:00 p.m. at the District Headquarters and the agenda was accepted as presented. Present were Directors Jack Baker, Rick Fraites, Michael Joly, and Stephen Petterle. Director Grossi was absent. Also present were General Manager Drew McIntyre, District Secretary Terrie Kehoe, Auditor-Controller Julie Blue and Chief Engineer Rocky Vogler.

District employees, Robert Clark (Operations/Maintenance Superintendent), Tony Arendell (Construction/Maintenance Superintendent) and Monica Juarez (Receptionist/Cashier) were also in attendance. In the audience were District legal counsel representative, Carl Nelson (Bold, Polisner, Maddow, Nelson and Judson); special counsel Tom Willis (Remcho, Johansen & Purcell); Chris Chaffee (Redistricting Partners, LLC) and Nic Zateslo (Political Data, Inc.).

MINUTES

On motion of Director Joly, seconded by Director Petterle the Board approved the minutes from the May 7, 2019 meeting as presented by the following vote:

AYES: Director Baker, Fraites, Joly and Petterle

NOES: None

ABSTAIN: None

ABSENT: Director Grossi

PUBLIC HEARING- CONSIDER PROPOSED INCREASE IN WATER RATES FOR NOVATO SERVICE AREA AND RESULTING REVISION TO DISTRICT REGULATION 54, WATER RATES

President Baker declared the public hearing opened at 6:01 p.m.

A Public Hearing was held to consider the proposed 3.5% increase in water rates for the Novato service area. Ms. Blue noted the District received fourteen official protest letters and three additional protest letters came in after the agenda was posted. Ms. Blue stated staff also received nine calls related to the increase; two which were in favor of the increase, and one that asked about low income rate assistance.

Mr. McIntyre gave a presentation on the reasons for the rate increase. He noted the increase is needed to keep pace with higher water costs, ongoing infrastructure repair and replacement costs, maintaining competitive employee compensation, and continued increases in government regulations and permit fees. Mr. McIntyre also stressed the importance to maintain financial viability. Mr. McIntyre reminded the Board of the previous dashboard example where if we had no rate increase moving forward our reserve would be fully depleted within five years. He noted that it is important to increase the rates so that we do not dip into reserves that are needed for an unplanned expenses, or disasters. Mr. McIntyre added that the Russian River water cost has increased over the last ten years with an average increase of 4.4% and is projected at 6% in the next five years. Mr. McIntyre also explained that the cost of the Stafford Treatment Plant water is higher, but it is crucial to have a local source. He added the NMWD facilities, CIP projects, pipelines, tanks, pump stations, hydrants, treatment plants and lab are all part of our infrastructure. Mr. McIntyre reminded the Board that we have an office renovation project coming up soon, which includes a new laboratory. The \$19M cost of this project in 2017 was significantly higher than originally estimated, and the first phase scope has been reduced to \$12M to address the most critical elements. Director Joly asked how old the building is. Mr. Clark replied that the building was constructed in 1965 per the original drawings of the building.

Mr. McIntyre stressed that our cost to provide water service not only provides water at the tap but also provide water for fire protection. Director Joly added that it is important that our customers understand, that we absorb these costs. Director Fraites asked if the fire districts give us any break or help with the costs. Mr. McIntyre replied that NMWD is responsible for the tanks and hydrants but the fire districts do work with us. He added that upgrades are often done when new projects come online, and the developer picks up the cost and in return they get a more robust system and good insurance ratings. Director Baker asked if we wanted to build a smaller tank for our own reasons could the fire districts require us to build a larger one. Mr. Nelson replied that the fire districts could make it hard for the new development to be approved without adequate fire protection facilities.

Mr. McIntyre continued with his presentation. Director Joly commented that Recycled Water was a tough decision to make it; but it has added a new local source of supply. Mr. McIntyre added that Recycled Water production is now close to one-third of annual production achieved at Stafford Lake and is 10% of our summer demand. Director Fraites asked a question about Proposition 218 requirements and Mr. McIntyre reminded the Board that we are underway on a new water rate study and Prop 218 requirements will be reviewed again as part

of this study. Director Fraites inquired about pensions and retirement costs. Mr. McIntyre noted that the Districts pension costs compare favorably to that other similar agencies in the area. Ms. Blue stated that she had responded to Director Joly earlier on this same concern. She noted that we will be looking into a trust rather than just a reserve to reduce liability. Director Joly asked a question about different rate structures and noted that he is now aware that one customer group cannot subsidize another. Mr. McIntyre added that you have to be careful of where funds are obtained to support any low income rate assistance program as they have to come from revenue from other sources of income rather than water sales. Mr. McIntyre noted that the District can use revenue from grazing and cell tower lease agreements for example. Mr. Nelson added that some agencies can use property tax revenue, and there is a new initiative being considered at the state that may address this issue. Director Joly thanked Mr. Nelson for his comments.

Director Petterle stated he has been on the Board for eighteen years and he wanted to acknowledge the people who took the time to write the letters, adding that he wished they would come to the Board Meetings. He commented that by attending the meetings they could learn the information that was provided tonight and understand that a 3.5% rate increase is reasonable compared to other agencies such as MMWD and SCWA. Director Petterle stressed that he would hope in the future they would come listen and be a part of the process. Director Joly stated he supported Director Petterle's comments and added that no one wants to raise rates; but it is the Board's obligation to do what is right and meet our mission statement to provide a product we can be proud of.

President Baker closed the hearing at 6:30 p.m.

On motion of Director Petterle, seconded by Director Fraites the Board approved the 3.5% Novato water rate increase as presented by the following vote:

AYES: Director Baker, Fraites, Joly and Petterle

NOES: None

ABSTAIN: None

ABSENT: Director Grossi

PUBLIC HEARING NO. 2 – CALIFORNIA RIGHTS ACT (CVRA) AND ELECTIONS CODE (ED) 10010:

President Baker declared the second public hearing opened at 6:35 p.m.

Mr. McIntyre opened the discussion by reminding the Board that this is the second of five scheduled public hearings related to the transition process from at-Large to by-District elections. He stated that tonight's public hearing will be to gather additional information to be used in the development of proposed division map alternatives. At the third and fourth public hearings, draft maps will be presented to solicit input from the public and the Board. The fifth and final public hearing will be held to approve the selected map by adopting an ordinance moving to by-division elections. Mr. McIntyre added that the public will also have a chance to comment on the proposed maps as part of the June 25th Board Meeting in West Marin.

Mr. Nelson of District legal counsel introduced special counsel Tom Willis, and demographers Chris Chaffee and Nic Zateslo. Mr. Chaffee noted that his presentation will be essentially the same as the one at the prior hearing, but will allow for comment in the event there are new members from the public in attendance. Mr. Chaffee stated that once the election process transitions to by-district elections, redistricting is done every ten years after the census. Director Joly asked we can have a meaningful difference on the number of voters. Mr. Chaffee replied that the count is based on the number of people, not voters. Director Joly clarified that the point of his question was about voting fairness. Mr. Chaffee responded that the Supreme Court only has one standard, one vote for one person. Mr. Chaffee confirmed it is not who is registered to vote, or citizenship, but always the total population that governs. He stated that by October the Supreme Court will look at the voter aspect, but the focus under the law as it now stands is to have districts equal in population and functionally, contiguous.

Mr. Chaffee stated that NMWD has three areas that are not contiguous, Marshall, West Marin, and Oceana Marin. He added we need to maintain communities of interest and that is where we need public testimony. Mr. Chaffee added, that although one or more race or ethnic groups are protected by the voting rights act, ethnicity or race cannot be the predominate factor determining where the lines are drawn. He stated that communities of interest could be areas of similar interests, such as seniors, or zones based on elevations. Mr. Chaffee added that they will look at the lines used to distinguish voting areas of other elections and the City of Novato's map. Director Baker asked if the City of Novato adopted their map yet. Mr. Chaffee replied that it is being voted on tonight.

Mr. Chaffee stated we need to keep the District compact in appearance and function, with no racially polarized voting. He added the vast majority of the population within the District is in Novato at 85%, then there are three other islands of population; the median division would have around 12,305 (plus or minus 5%) in population. Mr. Chaffee recognized that the

registered voters' population was almost 39,000 and amazingly there is one registered voter in Sonoma County. He added the first draft maps will be available on the 28th and the maps will be introduced at the third hearing, adding we are hoping for public input. Mr. Chaffee stated that depending upon the input, a second set of draft maps will be available for the fourth hearing, and the final maps will be available in July, prior to the contemplated adoption of an ordinance moving to by-division elections of Directors.

Director Joly asked what happens if after the Board makes the decision and a number of citizens object. Mr. Chaffee responded that they could sue under the CVRA. Mr. Nelson added that the focus of the CVRA is to get agencies to move to by-district elections. Once that happens, any challenge to the divisions as drawn is much harder, unless the variance of the population within the divisions goes over the allowed 10% population, or the lines are drawn incorrectly or are based on improper considerations. Director Petterle asked whether the City of Novato's map could be considered gerrymandering. Mr. Chaffee replied that if it is not the principal reason then no, but there has to be a rational reason for creating a district or supporting the incumbents. Mr. Willis added there is a common law principle that states there is nothing wrong with avoiding forcing incumbents out of office, under state law there is a policy against even considering incumbency, but it has less application to local jurisdictions.

Director Fraites stated that he and Director Grossi were re-elected in November 2018, he asked if they were both put in the same district, would they lose two years out of their four year term. Mr. Willis replied that by law they cannot shorten incumbent's terms. Director Fraites asked if he didn't run in 2020, could you still have two directors in the same district. Mr. Willis responded that one incumbent would still be considered at-large during his term. Mr. Willis added that incumbency can be taken into consideration when they select the sequence of elections. Director Baker stated the he is aware the City of Novato is close to finishing, and is also aware of parallel activities with Novato Sanitary, Novato Unified School District and Novato Fire Protection District. He added they all represent Novato, but we also need to represent West Marin. Director Baker asked if it is feasible to have some similarity to the other agencies' maps. Mr. Chaffee stated they have looked at other local agency maps, but are not supposed to start drawing our maps until after two hearings, and at this time we need more input from the public and the Board.

Director Joly noted that the City of Novato map did not include the islands. Mr. Chaffee stated that all the islands together would represent one third to one half of a proposed district. Mr. Chaffee stated that they will also consider freeways and waterways. Mr. Chaffee added at

the next presentation they will superimpose the City of Novato map over our maps. Director Baker asked to add the maps of Novato Sanitary District and Novato Fire Protection District if that does not look too busy. Mr. Chaffee replied that they can shade it so you can see it side by side. Director Baker also requested that they consider where the incumbents live. Director Joly asked if we have had any public input. Mr. McIntyre responded that we have had none so far. Director Fraites stated that at some point we will need to look at where the incumbents reside on the map. Mr. Chaffee reiterated that this will be part of the discussion of the sequence of elections.

Mr. Willis announced to the Board that it would be good to articulate to Mr. Chaffee what you want him to consider, communities of interest, incumbencies, and how to prioritize the boundaries. He added that it is better to look at these matters now rather than at the end, and easier to fix any problems with small corrections. Director Joly asked if Mr. Chaffee has a list of communities of interests. Mr. Chaffee replied that the public hearings are there to provide the public's input into communities of interest, and now is the time for the Board to make suggestions. Mr. Willis told the Board to tell the demographers what policies they want them to consider, maybe the elevation zone maps, or if it is helpful to consider the City's map, those kinds of things. Mr. Chaffee added that maybe you want to consider the City lines, which neighborhoods should be together, etc. Director Patterle pointed out that the lines are deceptive and the maps do not show slopes, noting when you divide the areas the topography should be considered. Mr. Clark added that the areas that are served by recycled water may be a consideration. Director Patterle stated that West Marin may have a lot in common with the agricultural areas of Novato, and the mapping should consider those that have different elevation zone rates. Director Fraites added that there are rural areas in Novato, then downtown the population is dense in the northwest quadrant; the more typical suburban area is in San Marin, Hamilton is special, and may not want to be divided. Director Patterle added that our district is very different; there is the City of Novato and then also Bel Marin Keys and Bahia, which is County of Marin.

Mr. Vogler commented that the government is telling people what that can and can't do. He added that land use is a perspective; West Marin is in the County, islands in Novato are County, they have a lot in common based on what the City or County dictates. Director Baker stated that some of the islands are surrounded by the City even though they are in the County, yet they consider themselves part of Novato and interact with the City and with Novato Fire for example. Director Fraites commented that West Marin should be kept in one group for

representation, and they may need to take some of Novato by Stafford Lake to make the population requirement, adding Director Grossi would probably be happy with that too. Mr. Willis agreed that area would be closer to West Marin. Director Petterle stated that we would also need to include Indian Valley. Mr. Chaffee added that we will need to balance the populations, take the islands into consideration and work east to stay within the 5% deviation. Director Baker noted that Supervisor Rodoni represents West Marin, and his district includes part of Novato, and we should look at Indian Valley, Pleasant Valley, and West Marin together. Mr. Willis asked if Highway 101 should be a boarder. Director Petterle stated that most of the population is on one side of 101.

Mr. McIntyre reminded the Board that we need to have the first draft of the maps done in one week. Mr. Chaffee responded that they will present the maps and then the Board can comment on them and they will supply three draft maps. Mr. Willis added the third hearing is when they will be able to give the best input. Mr. Nelson reminded the Board that all comments need to be public, and that some of their questions and concerns may already be settled once they look at the maps. Mr. McIntyre stated that at the next meeting we will have the first set of maps and the discussion will be more interactive. Mr. Chaffee stated on June 4th we will have discussion about the first draft of maps, and the second drafted maps on the 18th. Mr. Nelson added that once you see the maps it makes it more alive and easier to compare interests and diversity. Director Joly asked if they will be provided in the agenda package. Director Petterle requested that some of the streets be labeled to help with identification of each area. Director Joly ended the discussion by thanking the demographers and legal counsel.

President Baker declared the second public hearing closed at 7:35 p.m.

GENERAL MANAGER'S REPORT

Mr. McIntyre announced that he had nothing to report.

OPEN TIME

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

Mr. Clark reported on the possibility of PG&E shutting off power in Marin for several days this summer/fall when fire danger is high. He stated that staff is developing an action plan

to appropriately respond to extended power outage scenarios. Mr. Clark added that his hope is that PG&E will tell us in advance so we can prepare for the outage and noted that we do not have enough generators or fuel to last seven days. Mr. Clark also commented that we are not the only ones, the hospitals, public schools and others will be overwhelmed and the City and the County have a lot of questions for PG&E. Director Joly remarked that it seems like a political ploy, and asked if anyone has the authority over PG&E with this situation. Mr. Clark replied that the PUC may have some say; however across the state other power companies are doing the same. Director Petterle stated that without power we cannot pump the water to fight the fires, so PG&E may be liable if they shut the power off and shut down our pumps. Director Fraites commented that they need to install underground utilities to solve this problem.

Mr. Vogler reported on two planned aqueduct shutdowns that will take place in June associated with SCWA's aqueduct relocation work near the S. Petaluma Blvd overpass on Hwy 101. He stated that Caltrans needs to revise the grade of the southbound onramp at this overpass and in order to do so; a small portion of SCWA's aqueduct will need to be relocated. Director Joly asked how long the shutdowns will be. Mr. Vogler replied the duration will be sixteen hours but we will allow a twenty hour timeframe to be sure we have enough water stored to supply us for two full days without access to SCWA water. Director Baker asked if MMWD is included in the planned shutdown. Mr. Vogler confirmed that they have been informed that they cannot take water during the shutdown period and they are storing extra water now to prepare for the shutdown.

MONTHLY PROGRESS REPORT

The Monthly Progress Report for April was reviewed. Mr. McIntyre reported that water production in Novato was down 5% from one year ago and down 3% fiscal year to date. In West Marin, water production was down 4% from April one year ago and up 7% fiscal year to date. He noted that Stafford Treatment Plant production was up significantly from last year and closely matches that of fiscal year 2016-17. Mr. McIntyre also advised the Board that Recycled Water production was up 98% from one year ago and up 25% fiscal year to date. He noted that Stafford Lake and Lake Sonoma are essentially full and Lake Mendocino is at 106% capacity. Mr. McIntyre also stated that Oceana Marin discharge was twice as much as last year and overall we came through the wet weather season very well. He added that the under Utility Performance interruptions, we had an increase due to notifications associated with a leak repair at Montego Keys. Under Safety/Liability we currently have thirty-two days without a lost time injury. On the Summary of Complaints and Service Orders, the Board was apprised that the

overall numbers of complaints/service orders are up 28% from one year ago. Mr. McIntyre noted that the primary reason for this increase is due to increased customer water awareness due to AMI implementation. Mr. McIntyre also stated that year to date bill adjustment expenditures of \$105,000 are well below the \$142,000 expended last year at this time.

Ms. Blue reported on the April 2019 investments, where the District's portfolio holds \$19.3M earning a 2.37% average rate of return. Ms. Blue noted the LAIF rate is 2.45%. Director Joly asked staff to look into changing our self-insurance liability practice. Ms. Blue replied that she is meeting with our broker this week to look at other options. She stated that interest rates increased slightly leveling out at 2.45%. Director Joly asked to have some additional investment policy discussion as the LAIF investment percentage is getting up there at 40%. Ms. Blue replied that she will look into his concern.

CONSENT CALENDAR

On the motion of Director Fraites, and seconded by Director Joly the Board approved the following items on the consent calendar by the following vote:

AYES: Director Baker, Fraites, Joly and Petterle

NOES: None

ABSTAIN: None

ABSENT: Director Grossi

AVESTA WATER FACILITIES NOVATO- 516 HOSPITAL DRIVE, NOVATO APN 157-690-52

On the Consent Calendar, the Board approved the Avesta Water Service Agreement for the Hamilton Hospital Assisted Living Facility at 516 Hospital Drive in Novato. This assisted living facility includes 48 senior assisted living units and 32 senior memory care units.

CONTRACT AMENDMENT FOR ENGINEERING SERVICES – WHITE AND PRESCOTT

Also under the Consent Calendar, the Board approved a contract amendment for engineering services with White and Prescott. The current contract amount has not been completely expended; however planned expenditures coupled with upcoming tasks make a contract amendment necessary.

INFORMATION ITEMS

BUDGET REVIEW – PROPOSED FY 19/20 BUDGETS NOVATO AND WEST MARIN SERVICE AREAS

Mr. Blue reviewed the proposed FY 19/20 Budgets for Novato and West Marin Service Areas. She stated that essentially this is the same budget the Board previously reviewed with a

few changes. Ms. Blue noted two projects were added to the CIP, installation of an emergency generator at the treatment plant and a West Marin CIP project for bromide removal. She noted \$16,000 in increased operating costs are due to chemical treatment and sludge disposal cost increases. Ms. Blue commented that staff has also made the decision to pay off the small remaining balance of the two West Marin revenue bond loans, (PRE-1 and PRE-6), which will save the District money in the long term. Additionally, Ms. Blue stated that the connection fee projection is \$2.2M this year, this number changed since the last budget review, because more connection fees were received. Director Joly asked if the \$2.2 million is a net increase. Ms. Blue replied it is.

FY 18-19 THIRD QUARTER PROGRESS REPORT – OPERATIONS/MAINTENANCE

Mr. Clark reported that we had several more inches of rain in the last few days, so we are close to 39 inches of rain this year. He stated the Stafford Treatment Plant started up right after completion of the clearwell coating project and noted that it was an easy start up. He added the operators re-plumbed the clearwell piping and turbidity monitors. Mr. Clark stated that the Wild Horse Tank electrical service was relocated after it failed. Mr. Clark reported that while generators were deployed during the winter months, overall the storms did not affect us much and the generators did not have to run for long. Mr. Clark discussed the AMI project and how it relates to backflow, and cross connection staff have identified six hundred customers in the Bel Marin Keys area that will need backflow devices installed to bring them into compliance.

Mr. Clark added that in West Marin, we continue to work on a plan to reduce disinfection byproducts, emphasizing our biggest challenge will be July through September. He reminded the Board that we have hired a consultant to help us develop an action plan to address this issue. Mr. Clark also reported we had a pump failure at the Tahiti Way lift station but had the necessary spare parts to repair it. Director Baker asked if we should look to put something else in its place. Mr. Clark replied that we have pump station redundancy at this location and routinely replace the wearable parts every four years but this time it wore out in three years. Director Baker asked how we learned about the failure. Mr. Clark responded that our SCADA system alerted us of the problem.

MISCELLANEOUS

The Board received the following miscellaneous items: Disbursements – Dated May 9, 2019, Disbursements – Dated May 16, 2019 and Novato Chamber Leadership Novato 2019 Graduation Ceremony– Julie Blue.

The Board received the following news articles: West Marin faces better representation on North Marin board; NOVATO – Fire district begins election transition: Fire board increases

parcel tax rates; Marin could face long fire prevention outages; Opinion - Referendum could target Novato incumbent protection; Letter to Editor - Time to stop continual NMWD rate increases; Sonoma County supervisors eye future of key water diversion project; County hopes for key ranch purchase; Opinion -MMWD's fee hike proposal shines light on odd practices; Letter to Editor - Representing West Marin at North Marin Water; One less tax California lawmakers move to reject Gavin Newsom's water fee.

Mr. McIntyre acknowledged Ms. Blue for participating in the 2019 Novato Leadership program, which gave her good exposure to the Novato community. Mr. McIntyre also discussed the status of the Potter Valley Project and the recent Planning Agreement between SCWA and two other entities. He noted the objective of the Planning Agreement is to keep the FERC relicensing moving forward, otherwise PVP will become an orphaned project as defined by FERC and a new license would be required. Mr. McIntyre stated that he will apprise the Board when he hears more. Director Baker asked who all was involved. Mr. McIntyre replied that the Planning Agreement partners are SCWA, Mendocino Inland Water and Power Commission and Cal Trout. Director Baker asked if this group could lead to the creation of a new entity. Mr. McIntyre replied yes. Mr. McIntyre also referred to the article in reference to the State Water Tax Proposal, noting that there was success in delaying any action at this time but we can expect other water tax proposals in the future.

Mr. McIntyre announced that there will be no need to go into closed session.

CLOSED SESSION

President Baker announced that since there is no need to go into Closed Session he will adjourn the meeting.

ADJOURNMENT

President Baker adjourned the meeting at 8:10 p.m.

Submitted by



Theresa Kehoe
District Secretary