

January 25, 2010

A regular meeting of the Board of Directors of the Novato Sanitary District was held at 6:30 p.m., Monday, January 25, 2010, preceded by a closed session beginning at 6:00 p.m. at the District offices, 500 Davidson Street, Novato.

At 6:03 p.m. President Di Giorgio announced the Board would meet in closed session to discuss the following matter on the Closed Session Agenda.

CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION:

Existing litigation pursuant to Subsection (a) of Government Code Section 54956.9, Suzan Sharpley, Robert Abeling vs. William Long, Novato Sanitary District, Elaine Ginnold, Marin County Registrar of Voters.

BOARD MEMBERS PRESENT FOR CLOSED SESSIONS: President Michael Di Giorgio, Members James D. Fritz, William C. Long, George C. Quesada and Dennis Welsh.

STAFF PRESENT FOR CLOSED SESSIONS: Manager-Engineer Beverly B. James and District Counsel Kent Alm.

The closed Session ended at 6:30 p.m.

Open session began at 6:35 p.m.

BOARD MEMBERS PRESENT: President Michael Di Giorgio, Members James D. Fritz, William C. Long, George C. Quesada and Dennis Welsh.

STAFF PRESENT: Manager-Engineer Beverly James, Administrative Secretary Julie Borda, and District Counsel Kent Alm. Deputy Manager-Engineer Sandeep Karkal arrived at 7:10 p.m.

ALSO PRESENT: Deanna Pierce, Novato resident
Tom Pierce, Novato resident
Dennis Welsh, Petaluma
Jo Heffelfinger, Novato resident
Pam Welsh, Novato resident
Brant Miller, Novato resident
Phil Tucker, CA Healthy Communities Network
Dennis Fishwick, Novato resident
Norm Stone, Novato resident
John Bailey, Veolia Water

PLEDGE OF ALLEGIANCE:

AGENDA APPROVAL:

On motion of Member Quesada, seconded by Member Fritz, and carried unanimously, the Agenda was approved as mailed.

CLOSED SESSION REPORT: District Counsel Kent Alm reported that the hearing for this closed session item has been set for February 22nd.

PUBLIC COMMENT: None.

BOARD MEMBER REPORTS:

Member Long thanked Member Welsh for the revision of his letter (**letter to Patrick Faulkner, County Counsel, dated January 6, 2010**). Member Long also commented on an article in the Pacific Sun.

Member Fritz commented on the Wastewater Operations Committee meeting and the ongoing construction at the treatment facility.

President Di Giorgio also thanked Member Welsh for the revision of his letter and expressed his appreciation.

REVIEW OF MINUTES:

Consider approval of minutes of the November 9th, 23rd and 30th, 2009 Board meetings. Director Quesada requested the minutes be approved individually.

On motion of Member Quesada, seconded by Member Long and carried unanimously, the November 9, 2009 Board meeting minutes were approved.

Member Quesada questioned the formation of the Ad-hoc Referendum Preparation Committee and requested the committee be changed from "Ad-hoc" to a "Standing" committee to facilitate public notice and public attendance.

District Counsel Kent Alm suggested that if Board wished to have the meetings public, they could do so. He stated there is nothing that prohibits an Ad-hoc committee from having public meetings or keeping minutes, but it is not required; the decision is at the Board's discretion.

Member Di Giorgio pointed out a change to the November 23rd meeting minutes. He stated that the individuals appointed to the Ad-hoc Referendum Preparation Committee were himself and Member Fritz, not Member Long and Member Fritz as stated in the minutes. Recording Secretary Julie Borda will review the audio tape of the minutes, revise the minutes as needed, and request Board approval at the next scheduled Board meeting.

On motion of Member Quesada, seconded by Member Long and carried unanimously, the November 30, 2009 Board meeting minutes were approved.

CONSENT CALENDAR:

Member Fritz pointed out an incorrect date in item b: Meeting schedule – March 9th. He noted that the correct date should be March 8th.

On motion of Member Long, seconded by Member Quesada, and carried unanimously, the following consent calendar items were approved:

- a. Approval of Consent for Boundary Change and Waiver of Conducting Authority for Annexation of the Hamilton Pool.
- b. Approval of meeting schedule as follows: February 8th and 22nd, March 8th and 22nd, April 12th and 26th.
- c. Approval of regular disbursements in the amount of \$501,271.43, upgrade project disbursements in the amount of \$133,111.24, and payroll related disbursements in the amount of \$107,577.57.

WASTEWATER OPERATIONS:

Committee report: The Manager noted that the Wastewater Operations committee met on January 20, 2010. She reviewed the key points of the *Monthly Operations Report, December 2009*, prepared by Veolia Water West Operating Services, Inc. She discussed the January 4th low level mercury sample collected at the Ignacio site which was higher than any previous results for low level mercury. She discussed the details involved in this sample collection episode. She stated the results of the investigation were submitted to the Regional Water Quality Control Board as a preliminary memorandum to meet the five-day reporting requirements, and will additionally be submitted with the monthly Self-Monitoring Report.

President Di Giorgio questioned the mercury sample collection procedure and follow-up. The Manager explained in detail the actions that were taken due to this result and stated she was unsure of what caused the anomaly. Plant Manager, John Bailey, Veolia Water thoroughly discussed the collection methods required for mercury sampling.

COLLECTION SYSTEM IMPROVEMENTS PROJECT 72706:

Consider approval of change orders for the Railroad Avenue sewer main replacement. The Manager discussed the Railroad Avenue Sewer Line Project which the Board reviewed at their February 9, 2009 meeting. Under this Agreement, the District agreed to pay half of the estimated project costs. She noted that Signature Properties had incurred additional costs during the project totaling \$167,873 and that the District's

share of this cost (50%) would be \$83,936.50. She recommended the Board approve the change order.

Director Welsh questioned what revenue would be generated from this project. The Manager explained that 150 units would need connection permits at the current fee of \$7,720 per connection. She stated that in addition, each unit would be billed the annual sewer service charge of \$462 (current annual fee for fiscal year 2009-2010).

On motion on Member Quesdada, seconded by Member Fritz and carried unanimously, the Board approved payment to Signature Properties for change orders for the Railroad Avenue sewer main replacement in the amount of \$83,936.50.

DISTRICT COUNSEL:

District Counsel update on Board Member Welsh's letter of January 6, 2010 to Marin County District Attorney. District Counsel Kent Alm referenced a letter (included in the Board packet) dated January 6, 2010, addressed to Edward S. Berberian, District Attorney, from Board Member Dennis J. Welsh. He stated that the letter discussed the controversy over whether there was a conflict with Member Welsh's attendance at a Closed Session meeting where matters of the pending EPA investigation were discussed with representatives from the law firm of Barg, Coffin, Lewis and Trapp. He stated he received inquiries from the District Attorney's office and had responded with a written opinion which was provided to the Board members and to the District Attorney on January 22nd. He stated that the Board could agendaize this item at a later time after a response had been received from the District Attorney's office.

Norm Stone, Novato resident, asked Mr. Alm if the District would seek judicial intervention or name a Board member as a defendant in this matter. Mr. Alm stated that no one would be named as a defendant and the Board would wait until the District Attorney responded on this matter.

Give direction to staff and District Counsel regarding letter from Board Member Welsh of January 11, 2010. District Counsel Kent Alm commented on the items Member Welsh brought forth in the letter and stated he was able to address the core issue of the letter. He stated he could secure case law and background information regarding the legal issue of entering into the emergency contract with Veolia Water if the Board directed him to do so.

Member Long asked if Veolia was providing any services outside of the Emergency Services Contract. The Manager responded that Veolia was only providing the services as outlined in the Emergency Services Contract. District Counsel Kent Alm stated that his firm designed the Emergency Services Contract in a way that would be permissible in regards to the limitations set forth in the law.

Member Welsh commented on the portion of his letter which stated there is a Veolia employee spending hours in the lab. He expressed his dissatisfaction with anyone

other than District employees performing lab functions. The Manager responded that the District does not have any Veolia employees working as lab technicians; however, the District is coordinating laboratory reporting with Veolia as the monthly reports are prepared. She stated Veolia has provided input on the District's data collection and the Lab Supervisor has expressed her appreciation for this assistance.

The Board members discussed what direction Staff should take on this matter and Member Long responded that he felt lab operations should be left under the direction of the Manager-Engineer.

Member Welsh made a motion to direct District Counsel to give a written opinion as to whether Veolia Water employees can be allowed to perform any lab operations, collect samples, or to perform duties that should be assigned to District employees as per the scope of duties outlined in the Emergency Services Agreement. The motion died for lack of second.

Phil Tucker, CA Healthy Communities Network, discussed Veolia's expenditure prior to Veolia entering into the contract in September 2009. He discussed the referendum's certification by the Registrar of Voters and Veolia's continued operation. He asked if the Board has reviewed Veolia's invoices in view of the fact that the referendum is pending.

Dennis Fishwick, Novato resident, stated he does not feel the Manager has the authority to allow Veolia employees to operate in the District Lab. He referenced the San Anselmo sewage treatment facility. He stated he felt the District should remove Veolia and bring in the District's employees.

STRATEGIC PLAN UPDATE PROJECT 72808:

Consider approval of a contract with Bartle Wells Associates to update the Revenue Program for an amount not to exceed \$20,000. The Manager noted that Bartle Wells completed an update of the District's Revenue Program in 2005 and that it is time to update the program to forecast revenue and expenditures for the next five years. She pointed out that the District is planning to apply for federal and state grants and state revolving fund loans and in order to do this, an up to date revenue program must be completed. She stated she anticipates the Revenue Program will be completed in May 2010.

On motion of Member Long, seconded by Member Fritz, and carried unanimously, the Board approved a contract with Bartle Wells Associates to update the Revenue Program for an amount not to exceed \$20,000.

STAFF REPORTS:

California Association of Sanitation Agencies (CASA) Conference. The Manager gave a Power Point presentation and discussed her participation at the CASA mid-year conference.

Members Long, Fritz, and Di Giorgio discussed their participation at the conference, noting seminars on Fuel Cell research, the Delta and water legislation, and legislative topics that will be affecting sewer agencies in the near future.

North Bay Watershed Association Conference. The Manager noted that the North Bay Watershed Association will be holding their biannual conference on Friday, April 9th, in Petaluma. She reminded the Board members that the early registration discount deadline is January 31st. Members Di Giorgio, Welsh, Quesada, Fritz, and Long expressed an interest in attending.

MANAGER'S ANNOUNCEMENTS: None.

ADJOURNMENT: There being no further business to come before the Board, President Di Giorgio adjourned the meeting at 8:12 p.m.

Respectfully submitted,

Beverly B. James
Secretary

Julie Borda, Recording