

February 8, 2010

A regular meeting of the Board of Directors of the Novato Sanitary District was held at 6:30 p.m., Monday, February 8, 2010, preceded by a closed session beginning at 5:00 p.m. at the District offices, 500 Davidson Street, Novato.

At 5:01 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 – EXPOSURE TO LITIGATION – ONE POTENTIAL CASE:

Significant exposure to litigation pursuant to Subsection (b) of Government Code Section 54956.9.

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

ALSO PRESENT: Davina Pujari, Attorney with Barg, Coffin, Lewis and Trapp
Denny S. Parker, Director of Technology, Brown and Caldwell

The closed Session ended at 7:02 p.m.

Open session began at 7:05 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, Deputy Manager-Engineer Sandeep Karkal, Administrative Secretary Julie Borda, and District Counsel Kent Alm.

ALSO PRESENT: Tom Pierce, Novato resident
Dennis Welsh, Petaluma
Dean B. Heffelfinger, NSD employee and Novato resident
Dean L. Heffelfinger, Novato resident
Bill Scott, Novato resident
Colleen Rose, Novato resident
Justine Daniel, Novato resident

PLEDGE OF ALLEGIANCE:

AGENDA APPROVAL:

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

REPORT FROM CLOSED SESSION: No reportable action.

PUBLIC COMMENT:

Dean L. Heffelfinger, Novato resident, stated he was displeased with President Di Giorgio's comments at the December 14, 2009 Board meeting.

BOARD MEMBER REPORTS: None.

REVIEW OF MINUTES:

Consider approval of minutes of the November 23rd, 2009 Board meeting.

On motion of Member Long, seconded by Member Fritz and carried unanimously, the November 23, 2009 Board meeting minutes were approved.

CONSENT CALENDAR:

Member Welsh stated he could not approve the consent calendar disbursements due to not having full detail of the Veolia contract billing. The matter was discussed between the Manager and Director Welsh and the Manager reviewed the District's procedural accounting methods.

On motion of Member Quesada, seconded by Member Long, and carried with 4 ayes (Di Giorgio, Quesada, Fritz and Long) and one no (Welsh), the following consent calendar item was approved:

- a. Approval of regular disbursements in the amount of \$829,738.33, upgrade project disbursements in the amount of \$1,158,744.40, and Board member disbursements in the amount of \$2,429.97.

SOLID WASTE:

Report on school recycling incentive program: The Manager introduced Steve McCaffrey, Director of Governmental Affairs, Novato Disposal. Mr. McCaffrey discussed the new Food Waste Composting and Recycling Program that was introduced to Novato schools on February 1, 2010. He stated that the composting program will lower the school's solid waste fees by reducing the amount of solid waste generated.

The Manager pointed out that Novato Disposal will fully cover the cost of the incentive program and there will be no impact on rate payers.

President Di Giorgio commented on the benefits of the program and thanked Steve McCaffrey. Member Long commended Novato Disposal and Mr. McCaffrey for implementing this program.

REFERENDUM ON CONTRACT SERVICE AGREEMENT:

Consider approval of Resolution No. 3021 setting the ballot language for the referendum on the Contract Service Agreement. The Manager discussed the Board's approval of the Contract Service Agreement on September 21, 2009 with Veolia Water and the subsequent Referendum Petition filed with the Marin County Registrar of Voters. She stated that the Petition protested the approval of the Agreement and requested the Board repeal its approval, or alternatively, submit the Agreement to the voters of the District for adoption or repeal. She noted that on November 2, 2009, the District received certification from the Marin County Registrar of Voters indicating that the Referendum Petition contained a sufficient number of valid signatures to qualify for an election and that the Board of Directors, at their November 23, 2009 meeting, set June 8, 2010 as the date for the referendum vote. She stated that an Adhoc Committee was appointed to draft the ballot language for the referendum and the language is: "Shall the Novato Sanitary District's approval of the contract entitled "Novato Sanitary District Contract Service Agreement for Operation, Maintenance, and Management of Wastewater Treatment Facilities" be repealed?"

The Manager noted that there were two corrections to the Resolution in paragraph 5(g): "to prepare a written argument **against** the proposed measure," and "In the event that an argument is filed **in favor of** the measure..." The Board discussed the details of the Resolution and the language with District Counsel Kent Alm. President Di Giorgio noted that the Resolution language used is very close to the language that was on the referendum petition.

District Counsel Kent Alm discussed approved ballot language for an ordinance referendum, noting that because this was not an ordinance, the language in this Resolution closely followed the petition language so as to minimize any potential arguments over the ballot language.

President Di Giorgio opened the matter for public discussion.

David Jackson, Novato resident, suggested the referendum language state the contract is with Veolia Water.

Norm Stone, Novato resident, clarified ballot language to be used for referendum stating that "yes" appears to mean "no" and "no" appears to mean "yes".

Bill Scott, Novato resident, commented on the ballot language, stating that it appears the language is not clear.

Dean L. Heffelfinger, Novato resident, discussed the language on the referendum stating he believes language should say "no to contract with Veolia or yes to agree to contract with Veolia".

Tom Pierce, Novato resident, discussed the referendum language stating it would be irrelevant to include the date the Board approved the Contract with Veolia Water.

President Di Giorgio closed public comment.

Member Long clarified that the proposed referendum language was consistent with the referendum petition wording.

Members Welsh and Quesada stated they prefer the language to clearly state that "yes" means the individual wants the contract in place and "no" means the individual does not want the contract in place.

*On motion of Member Long, seconded by Member Fritz, and carried with the following vote, the petition language was approved as stated: **Shall the Novato Sanitary District's approval of the contract entitled "Novato Sanitary District Contract Service Agreement for Operation, Maintenance, and Management of Wastewater Treatment Facilities" be repealed?** Ayes: Di Giorgio, Long and Fritz. Noes: Quesada and Welsh.*

The Board discussed the approval of Resolution No. 3021. Member Long suggested the Adhoc Committee meet again to confirm the individuals who will be listed in paragraph 5(g). President Di Giorgio suggested the Board wait on approval of Resolution No. 3021 until the February 22nd Board meeting.

On motion of Member Fritz, seconded by Member Long and carried with the following vote, the Board will consider approval of Resolution No. 3021, at the Board meeting of February 22, 2010. Ayes: Di Giorgio, Fritz, Long, Welsh. No: Quesada.

ADMINISTRATIVE:

Consider approval of the policy on Directors. The Manager noted the highlighted changes to the Policy Handbook Policy Number: 4050, Members of the Board of Directors. The Board discussed the wording of the Policy and made the following changes: 4050.3: Directors shall defer to the *President* for conduct.... and 4050.7: Any request by an individual director that will take more than one hour of staff time *shall be reported to the Board.*

District Counsel Kent Alm suggested the District Agenda contain a sentence at the bottom of the Agenda stating: "Board Agendas and Board Packets are available for viewing and download at the Novato Sanitary District Website: www.novatosan.com."

The Board discussed the Freedom of Information Act with District Counsel.

On motion of Member Long, seconded by Member Fritz, and carried with the following vote, Policy Handbook, Policy Number: 4050, Members of the Board of Directors, was approved as amended. Ayes: Di Giorgio, Quesada, Long, Fritz. Noes: Welsh.

STAFF REPORTS:

Mutual Aid Agreement with North Marin Water District. The Manager noted that the District has entered into a Mutual Aid Agreement with North Marin Water District. She outlined the specifics of the agreement and discussed the opportunities that will be available to both districts because of the additional support.

Jim Lynch, District employee, read a letter on behalf of Don E. Garcia, Teamsters Local 315, regarding the mutual aid agreement with North Marin Water District. In the letter, Mr. Garcia strongly objected to the agreement.

Bill Scott, Novato resident, stated the mutual aid agreement was a good idea but suggested the Teamsters Union be contacted and informed of the details.

Emergency repair to the secondary clarifier on Novato Treatment Plant. The Deputy Manager-Engineer discussed the east secondary clarifier noting that it was not functioning properly due to mechanical problems. Progress of the repair was discussed by John Bailey, Project Manager, Veolia Water.

The Board discussed with the Manager planned and routine maintenance measures for the new facility.

Emergency repair to the outfall. The Manager discussed the emergency repair to the outfall pipeline, noting that the pipeline is approximately five miles in length. She noted that on February 4th a potential leak was reported and that the pipeline was capped off. She stated the District is proceeding with corrective measures.

Liability insurance report. The Manager noted that liability insurance coverage for the District is provided through the CSRMA Pooled Liability Program. She noted that all agencies share in dividends through the formula adopted by the CSRMA Board of Directors. She reported that the District has just received a dividend check from CSRMA for \$24,035 which is the District's share of the most recent dividend declared by the CSRMA Board of Directors.

MANAGER'S ANNOUNCEMENTS:

The Wastewater Operations Committee meeting is rescheduled due to a District holiday from February 15th to February 19th.

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